

Statutes and Regulations on

Infectious and Reportable Diseases in Kansas

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Preface

Thank you for taking time to review “Kansas Statutes on Infectious and Reportable Diseases.” We hope that this publication provides a tremendous benefit to you and your organization.

Now more than ever, it is important for public health practitioners to have some familiarity with the laws and regulations that shape our profession. It is possible that we may be called upon to respond in ways never before considered. The primary purpose of this document is to provide a single, written source of information regarding selected state statutes and regulations which most directly affect the prevention of infectious disease in Kansas.

Any Kansas statute may be accessed on the Web at <http://www.kslegislature.org> by clicking on the “Statutes” link. This link will take you to a page where statutes may be searched by number, keyword, or by chapter of the Kansas Register. Federal laws and regulations may be accessed at <http://www.firstgov.gov> under the “Laws and Regulations” link.

The Kansas Department of Health and Environment appreciates your interest in Kansas public health laws and your participation in the partnerships and ongoing efforts to protect and improve the health and safety of Kansans. Thank you.

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Prevention

DISCLAIMER: *The statutes and regulations contained herein are not comprehensive and are not to be construed as legal advice, and do not serve as the official statutes and regulations of the state of Kansas. The official copies of these are retained and published by the Kansas Secretary of State’s Office. Revoked statutes and reserved articles have not been listed in this publication. Similarly, federal statutes and regulations and local ordinances are not within the intended scope of this document. The information contained herein is provided for informational purposes only.*

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Kansas Disease Control Statutes

General Disease Control

65-101. Health supervision; investigation of causes of disease, sickness and death; sanitation inspections; prevention of spread of disease; outreach services; rules and regulations; injunction.

(a) The secretary of health and environment shall exercise general supervision of the health of the people of the state and may:

(1) Where authorized by any other statute, require reports from appropriate persons relating to the health of the people of the state so a determination of the causes of sickness and death among the people of the state may be made through the use of these reports and other records;

(2) investigate the causes of disease, including especially, epidemics and endemics, the causes of mortality and effects of locality, employments, conditions, food, water supply, habits and other circumstances affecting the health of the people of this state and the causes of sickness and death;

(3) advise other offices and agencies of government concerning location, drainage, water supply, disposal of excreta and heating and ventilation of public buildings;

(4) make sanitary inspection and survey of such places and localities as the secretary deems advisable;

(5) take action to prevent the introduction of infectious or contagious disease into this state and to prevent the spread of infectious or contagious disease within this state.

(6) provide public health outreach services to the people of the state including educational and other activities designed to increase the individual's awareness and appropriate use of public and other preventive health services.

(b) The secretary of health and environment may adopt rules and regulations necessary to carry out the provisions of paragraphs (1) through (6), inclusive, of subsection (a). In addition to other remedies provided by law, the secretary is authorized to apply to the district court, and such court shall have jurisdiction upon a hearing and for cause shown to grant a temporary or permanent injunction to compel compliance with such rules and regulations.

HISTORY: L. 1885, ch. 129, sec. 4; L. 1907, ch. 379, sec. 1; R.S. 1923, 65-101; L. 1974, ch. 352, sec. 1; L. 1981, ch. 240, sec. 1; L. 1989, ch. 184, sec. 1; July 1.

65-102. Registration of vital statistics and diseases; forms. The secretary of health and environment shall supervise the registration of marriages, births, and deaths, and also the registration of forms of disease prevalent in the state; and the director of the division of health shall superintend the registration of the vital statistics of the state. The secretary of health and environment shall prepare the blank forms necessary for obtaining and preserving such records, and forward them to the health officers of local boards as may be required by physicians, appraisers, local boards, and others whose duty it is to gather information in relation to the vital statistics of the state.

HISTORY: L. 1885, ch. 129, sec. 5; R.S. 1923, 65-102; L. 1974, ch. 352, sec. 2; L. 1979, ch. 188, sec. 1; July 1.

65-102b. Confidentiality of information concerning noninfectious diseases; disclosure. Information concerning noninfectious diseases obtained by the secretary under K.S.A. 65-102 is confidential and shall not be disclosed except as provided in this section. The secretary may disclose information concerning noninfectious diseases obtained under K.S.A. 65-102:

(a) Upon the consent, in writing, of the person who is the subject of the information, or if such person is under 18 years of age, by such person's parent or guardian; or

(b) upon the request of an organization or scholarly investigator for legitimate research or data collection purposes so long as such information is disclosed in a manner which will not reveal the identity of the persons who are the subject of the information.

HISTORY: L. 1982, ch. 252, sec. 1; July 1.

65-118. Reporting to local health authority as to infectious or contagious diseases; persons reporting; immunity from liability; confidentiality of information; disclosure.

(a) Whenever any person licensed to practice the healing arts or engaged in a postgraduate training program approved by the state board of healing arts, licensed dentist, licensed professional nurse, licensed practical nurse, administrator of a hospital, licensed adult care home administrator, physician assistant, licensed social worker, teacher or school administrator knows or has information indicating that a person is suffering from or has died from an infectious or contagious disease as defined in rules and regulations, such knowledge or information shall be reported immediately to the county or joint board of health or the local health officer, together with the name and address of the person who has or is suspected of having the infectious or contagious disease, or the name and former address of the deceased individual who had or was suspected of having such a disease. In the case of a licensed hospital or adult care home, the administrator may designate an individual to receive and make such reports. The secretary of health and environment shall, through rules and regulations, make provision for the consolidation of reports required to be made under this section when the person required to make the report is working in a licensed hospital or adult care home. Laboratories certified under the federal clinical laboratories improvement act pursuant to 42 code of federal regulations, 493 shall report the results of microbiologic cultures, examinations, immunologic essays for the presence of antigens and

antibodies and any other laboratory tests which are indicative of the presence of a reportable infectious or contagious disease to the department of health and environment. The director of the division of health may use information from death certificates for disease investigation purposes.

(b) Any person who is an individual member of a class of persons designated under subsection (a) of this section and who reports the information required to be reported under such subsection in good faith and without malice to a county or joint board of health, a local health officer or the department of health and environment shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed in an action resulting from such report. Any such person shall have the same immunity with respect to participation in any judicial proceeding resulting from such report.

(c) Information required to be reported under subsection (a) of this section shall be confidential and shall not be disclosed or made public, upon subpoena or otherwise, beyond the requirements of subsection (a) of this section or subsection (a) of K.S.A. 65-119, except such information may be disclosed:

(1) If no person can be identified in the information to be disclosed and the disclosure is for statistical purposes;

(2) if all persons who are identifiable in the information to be disclosed consent in writing to its disclosure;

(3) if the disclosure is necessary, and only to the extent necessary, to protect the public health;

(4) if a medical emergency exists and the disclosure is to medical personnel qualified to treat infectious or contagious diseases. Any information disclosed pursuant to this paragraph shall be disclosed only to the extent necessary to protect the health or life of a named party; or

(5) if the information to be disclosed is required in a court proceeding involving child abuse and the information is disclosed in camera.

HISTORY: L. 1901, ch. 285, sec. 2; R.S. 1923, 65-118; L. 1953, ch. 283, sec. 1; L. 1976, ch. 262, sec. 1; L. 1979, ch. 189, sec. 1; L. 1998, ch. 35, sec. 1; L. 2000, ch. 162, sec. 17; Feb. 1, 2001.

65-119. Duties and powers of local health officers; contagious diseases; confidentiality of information; disclosure, when.

(a) Any county or joint board of health or local health officer having knowledge of any infectious or contagious disease, or of a death from such disease, within their jurisdiction, shall immediately exercise and maintain a supervision over such case or cases during their continuance, seeing that all such cases are properly cared for and that the provisions of this act as to isolation, restriction of communication, quarantine and disinfection are duly enforced. The county or joint board of health or local health officer shall communicate without delay all information as to existing conditions to the secretary of health and environment. The local health officer shall confer personally, if

practicable, otherwise by letter, with the person in attendance upon the case, as to its future management and control. The county or joint board of health or local health officer is hereby empowered and authorized to prohibit public gatherings when necessary for the control of any and all infectious or contagious disease.

(b) Any disclosure or communication of information relating to infectious or contagious diseases required to be disclosed or communicated under subsection (a) of this section shall be confidential and shall not be disclosed or made public beyond the requirements of subsection (a) of this section or subsection (a) of K.S.A. 65-118, except as otherwise permitted by subsection (c) of K.S.A. 65-118.

HISTORY: L. 1901, ch. 285, sec. 3; R.S. 1923, 65-119; L. 1953, ch. 283, sec. 2; L. 1974, ch. 352, sec. 8; L. 1976, ch. 262, sec. 2; L. 1979, ch. 189, sec. 2; July 1.

65-122. Schools and child care facilities; non-admissions and exclusions; readmissions, when. No person afflicted with an infectious or contagious disease dangerous to the public health shall be admitted into any public, parochial or private school or licensed child care facility. It shall be the duty of the parent or guardian, and the principal or other person in charge of any public, parochial, private school or licensed child care facility to exclude therefrom any child or other person affected with a disease suspected of being infectious or contagious until the expiration of the prescribed period of isolation or quarantine for the particular infectious or contagious disease. If the attending person licensed to practice medicine and surgery or local health officer finds upon examination that the person affected with a disease, suspected of being infectious or contagious is not suffering from an infectious or contagious disease, he or she may submit a certificate to this effect to the person in charge of the public, parochial, private school or licensed child care facility and such person shall be readmitted to school or to the child care facility.

HISTORY: L. 1901, ch. 285, sec. 6; R.S. 1923, 65-122; L. 1953, ch. 283, sec. 3; L. 1976, ch. 262, sec. 3; July 1.

65-123. Funeral services. Funeral services for individuals who have died while suffering from an infectious or contagious disease shall be conducted in accordance with rules and regulations of the secretary of health and environment. In diseases requiring quarantine of contacts, a public funeral service may be permitted only if the casket remains closed and those contacts subject to quarantine who attend the funeral are adequately segregated from the public.

HISTORY: L. 1901, ch. 285, sec. 7; R.S. 1923, 65-123; L. 1953, ch. 283, sec. 4; L. 1974, ch. 352, sec. 9; L. 1976, ch. 262, sec. 4; July 1.

65-126. Quarantine of city, township or county. Whenever the county or joint board of health or the local health officer neglects to properly isolate and quarantine infectious or contagious diseases and persons afflicted with or exposed to such diseases as may be necessary to prevent the spread thereof, the secretary of health and environment may quarantine any area in which any of these diseases may show a tendency to become epidemic.

HISTORY: L. 1901, ch. 285, sec. 10; R.S. 1923, 65-126; L. 1953, ch. 283, sec. 5; L. 1974, ch. 352, sec. 10; L. 1976, ch. 262, sec. 5; July 1.

65-127. Penalty provision. Any person found guilty of violating any of the provisions of K.S.A. 65-118, 65-119, 65-122, 65-123 and 65-126, and any amendments thereto, or failing to comply with any requirements thereof shall be fined, upon conviction, not less than twenty-five dollars (\$25) nor more than one hundred dollars (\$100) for each offense.

HISTORY: L.1901, ch. 285, sec. 11; R.S. 1923, 65-127; L. 1976, ch. 262, sec. 6; July 1.

65-128. Rules and regulation of secretary for isolation and quarantine; publication; definition.

(a) For the protection of the public health and for the control of infectious or contagious diseases, the secretary of health and environment by rules and regulations shall designate such diseases as are infectious or contagious in their nature, and the secretary of health and environment is authorized to adopt rules and regulations for the isolation and quarantine of such diseases and persons afflicted with or exposed to such diseases as may be necessary to prevent the spread and dissemination of diseases dangerous to the public health.

(b) As used in K.S.A. 65-118, 65-119, 65-122, 65-123, 65-126 and 65-129, and amendments thereto, "infectious or contagious disease" means any disease designated by the secretary of health and environment as an infectious or contagious disease in accordance with subsection (a) but the infectious or contagious disease acquired immune deficiency syndrome or any causative agent thereof shall not constitute an infectious or contagious disease for the purposes of K.S.A. 65-118, 65-119, 65-122, 65-123, 65-126 and 65-129, and amendments thereto, because such disease is subject to the provisions of K.S.A. 1988 Supp. 65-6001 through 65-6007 and amendments thereto.

HISTORY: L. 1917, ch. 205, sec. 1; R.S. 1923, 65-128; L. 1953, ch. 283, sec. 6; L. 1965, ch. 506, sec. 25; L. 1974, ch. 352, sec. 11; L. 1976, ch. 262, sec. 7; L. 1988, ch. 232, sec. 9; July 1.

65-129. Penalties for unlawful acts. Any person violating, refusing or neglecting to obey any of the rules and regulations adopted by the secretary of health and environment for the prevention, suppression and control of infectious or contagious diseases, or who leaves any isolation area of a hospital or other quarantined area without the consent of the local health officer having jurisdiction, or who evades or breaks quarantine or knowingly conceals a case of infectious or contagious disease shall be guilty of a class C misdemeanor.

HISTORY: L. 1917, ch. 205, § 2; R.S. 1923, 65-129; L. 1974, ch. 352, § 12; L. 1976, ch. 262, § 8; July 1.

65-159. Abatement of nuisances; failure to remove, penalties. The secretary of health and environment and the county or joint boards of health shall have power and authority to examine into all nuisances, sources of filth and causes of sickness that in their opinion may be injurious to the health of

the inhabitants within any county or municipality in this state. Whenever any such nuisance, source of filth or cause of sickness shall be found to exist on any private property or upon any watercourse in this state, the secretary of health and environment or county or joint boards of health shall have the power and authority to order, in writing, the owner or occupant thereof at his or her own expense to remove the nuisance, source of filth or cause of sickness within twenty-four (24) hours, or within such reasonable time thereafter as such secretary or such county or joint board may order; and if the owner or occupant shall fail to obey such order, such owner or occupant upon conviction shall be fined not less than ten dollars (\$10) nor more than one hundred dollars (\$100), and each day's continuance of such nuisance, source of filth, or cause of sickness, after the owner or occupant thereof shall have been notified to remove the nuisance, source of filth or cause of sickness, shall be a separate offense.

HISTORY: L. 1907, ch. 383, sec. 1; R.S. 1923, 65-159; L. 1974, ch. 352, sec. 20; L. 1980, ch. 182, sec. 21; July 1.

65-202. Same; oath and bond of local health officers; duties and compensation; employment of additional personnel; removal from office; criminal penalties. The local health officer in each county throughout the state, immediately after his or her appointment, shall take the same oath of office prescribed by law for the county officers, shall give bond of five hundred dollars (\$500) conditioned for the faithful performance of his or her duties, shall keep an accurate record of all the transactions of his or her office, shall turn over to his or her successor in office or to the county or joint board of health selecting such officer, on the expiration of his or her term of office, all records, documents and other articles belonging to the office and shall faithfully account to said board and to the county and state for all moneys coming into his or her hands by virtue of the office. Such officer shall notify the secretary of health and environment of his or her appointment and qualification, as herein provided for, and provide the secretary with his or her post-office address.

Such officer shall receive and distribute without delay in the county for which he or she is appointed all forms from the secretary of health and environment to the rightful persons, all returns from persons licensed to practice medicine and surgery, assessors and local boards to said secretary, shall keep an accurate record of all of the transactions of his or her office and shall turn over all records and documents kept by such officer, as herein provided, and all other articles belonging to the office to his or her successor in office, or to the county or joint board electing such officer, on the expiration of his or her term of office.

Such officer shall upon the opening of the fall term of school, make or have made a sanitary inspection of each school building and grounds, and shall make or have made such additional inspections thereof as are necessary to protect the public health of the students of the school.

Such officer shall make or have made an investigation of each case of smallpox, diphtheria, typhoid fever, scarlet fever, acute anterior poliomyelitis (infantile paralysis), epidemic cerebro-spinal meningitis and such other acute infectious, contagious or communicable diseases as may be required, and shall use all known measures to prevent the spread of any such infectious, contagious or communicable disease, and shall perform such other duties as this act, his or her county or joint board, or the secretary of health and environment may require.

Such officer shall receive for his or her services such reasonable compensation as his or her board may allow and with the approval of his or her board of health may employ a skilled professional nurse and other additional personnel whenever deemed necessary for the protection of the public health.

All of said several sums allowed shall be paid out of the county treasury. For any failure or neglect of said local health officer to perform any of the duties prescribed in this act, he or she may be removed from office by the secretary of health and environment, as well as in the manner prescribed by the preceding section. In addition to removal from office as provided herein, for any failure or neglect to perform any of the duties prescribed by this act, said local health officer shall be deemed guilty of a misdemeanor and, upon conviction, be fined not less than ten dollars (\$10) nor more than one hundred dollars (\$100) for each and every offense.

HISTORY: L. 1885, ch. 129, § 8; L. 1909, ch. 102, § 1; R.S. 1923, 65-202; L. 1925, ch. 202, § 1; L. 1927, ch. 240, § 1; L. 1973, ch. 246, § 2; L. 1975, ch. 462, § 70; L. 1980, ch. 182, § 26; July 1.

ANIMAL HEALTH

47-1803. Disposition of injured or diseased animals.

(a) Any public health officer, officer or agent of a duly incorporated humane society, animal shelter or other appropriate facility, licensed veterinarian or police officer may take charge of any livestock or other domestic animal found injured or diseased upon public property. Such animal may be transported to a licensed veterinarian or a duly incorporated humane society, animal shelter or other appropriate facility for treatment, or, if such animal is injured or diseased beyond recovery or appears likely to injure any person or property, such animal may be killed in a humane manner by any such officer or agent.

(b) Any public health officer, officer or agent of a duly incorporated humane society, animal shelter or other appropriate facility, licensed veterinarian or police officer may take charge of any livestock or other domestic animal found injured or diseased upon private property if such animal appears likely to injure any person or property. The disposition of such animal shall be as provided in subsection (a) of this section.

(c) Unless any such animal's death appears to be imminent by reason of its disease or disability, or such animal is likely to injure any person or property, no such animal may be killed under the provisions of this section unless its owner cannot be located within twenty-four (24) hours.

HISTORY: L. 1975, ch. 280, § 1; July 1.

UNIFORM VITAL STATISTICS ACT

65-2438. Notification of person transporting dead body for disposition that deceased had an infectious or contagious disease; form; notification of embalmer, funeral director or other person taking possession of body; confidential information; penalties for violations; "infectious or contagious disease" defined.

(a) When a person who has been diagnosed as having an infectious or contagious disease dies, the attending physician or, if there is no attending physician, the director of nursing or the director's designee, at a medical care facility of adult care home, or a family member or person making arrangements for the disposition of the dead body who knows of such diagnosis, shall indicate, on a form promulgated by the secretary, that the deceased person had an infectious or contagious disease. The completed form shall accompany the body when it is transported for disposition.

(b) Any person who transports a dead body for disposition and who has been notified pursuant to the provisions of subsection (a) that the deceased person had been diagnosed as having an infectious or contagious disease shall present notification thereof accompanying the dead body to any embalmer, funeral director or other person taking possession of the dead body.

(c) Any person who completes the form required in subsection (a) in good faith and without malice shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed in an action resulting from such report.

(d) Any information relating to an infectious or contagious disease which is required to be disclosed or communicated under subsections (a) and (b) shall be confidential and shall not be disclosed or made public beyond the disclosure necessary under subsections (a) and (b).

(e) Any person required to perform duties specified under subsection (a) or (b) who knowingly refuses or omits to perform such duties is guilty of a class C misdemeanor. Any person who violates any provision of subsection (d) shall be guilty of a class C misdemeanor.

(f) As used in this section, "infectious or contagious disease" means the disease acquired immune deficiency syndrome, human immunodeficiency virus and any other causative agent of acquired immune deficiency syndrome and any disease designated as infectious or contagious by the secretary of health and environment by rules and regulations under K.S.A. 65-128 and amendments thereto.

HISTORY: L. 1988, ch. 232, sec. 8; L. 1994, ch. 135, sec. 1; July 1.

DEPARTMENT OF CORRECTIONS

75-5224. Contagious disease or catastrophe; removal of inmates. In the case of any contagious disease, natural disaster or catastrophe occurring in any institution under the control of the secretary, the secretary may cause the removal of such inmates as may be necessary to a place of security consistent with their safekeeping until such time as said inmates may safely be returned to such institution.

HISTORY: L. 1973, ch. 339, § 33; July 1, 1974.

Cancer Registry

65-1,168. Cancer registry; definitions.

(a) "Confidential data" means any data which permits the identification of individuals.

(b) "Health care provider" means a person licensed to practice medicine and surgery, a hospital as defined in K.S.A. 65-425 and amendments thereto, any individual providing health care services or a pathology laboratory.

(c) "Secretary" means the secretary of the department of health and environment.

HISTORY: L. 1997, ch. 110, sec. 1; July 1.

65-1,169. Same; collection of data; rules and regulations; reporting by health care providers.

(a) The secretary is hereby authorized to collect data pertaining to all cancers occurring in Kansas into a registry which shall be the cancer registry for the state of Kansas. The secretary shall adopt rules and regulations which use the most efficient, least intrusive means for collecting cancer data consistent with ensuring the quality, timeliness, completeness and confidentiality of the cancer registry. The rules and regulations shall specify who shall report, the data elements to be reported, timeliness of reporting and format for collecting and transmitting data to the registry.

(b) Reporting by persons licensed to practice medicine or surgery and other individuals providing health care services shall be limited to responding to requests for information regarding persons with cancer previously identified by other means.

HISTORY: L. 1997, ch. 110, sec. 2; July 1.

65-1,170. Same; uses of nonconfidential data. Uses of registry data which are not confidential in nature include, but are not limited to:

(a) The production of statistical data which outline the frequency, distribution, severity at diagnosis, treatment and survival for each type of cancer;

(b) the design and implementation of cancer screening programs which have been demonstrated to decrease cancer mortality;

(c) assessing the cancer risk in the Kansas population;

(d) assessing the possible cancer risk of abortion;

(e) identifying previously unrecognized risk factors and causes of cancer;

(f) monitoring the potential health impact of environmental exposures;

(g) monitoring health care access and utilization and effectiveness of services for the prevention and treatment of cancer; and

(h) quantifying costs associated with cancer care.

HISTORY: L. 1997, ch. 110, sec. 3; July 1.

65-1,171. Same; confidential data; exceptions to prohibition on disclosure; data not subject to subpoena or open records act; storage of data. The information contained on the cancer registry shall be confidential, shall not be disclosed except as provided in K.S.A. 1998 Supp. 65-1,172 and amendments thereto, shall not be subject to subpoena, discovery or introduction into evidence in any civil or criminal proceeding and shall not be subject to the provisions of the Kansas open records act. The secretary shall ensure that the confidentiality of any data collected

which might be used to identify an individual with cancer or a health care provider is maintained. Storage of cancer data shall be in a manner which will protect all information which uniquely identifies individuals.

HISTORY: L. 1997, ch. 110, sec. 4; July 1.

65-1,172. Same; uses of confidential data. Confidential data collected pursuant to this act shall be securely locked and used only for the following purposes:

(a) Ensuring the quality and completeness of the registry data.

(b) Investigating the nature and cause of abnormal clusterings of cancer and the possible cancer risk related to having an abortion.

(c) Offering through the personal physician, to persons with cancer, access to cancer diagnostics and treatments not available except through clinical trials. As long as such trials are conducted with the informed, written consent of the cancer patient, the confidential data is approved for release by the secretary for the purpose of such clinical trials and the clinical trials are approved by the clinical entity.

(d) Releasing data back to the institution or individual which reported cases as long as such release includes only those cases previously reported by the requesting institution or individual.

(e) As part of an exchange agreement with another state, confidential data collected on a resident of another state may be released to the cancer registry of that person's state of residence if that state has confidentiality requirements that provide assurance of protection of confidentiality equivalent to that provided by Kansas under this act.

(f) Releasing information upon consent, in writing, of the person who is the subject of the information, or if such person is under 18 years of age, by such person's parent or guardian.

HISTORY: L. 1997, ch. 110, sec 5; July 1.

65-1,173. Same: panel to establish policies for release of nonconfidential data; release of statistical data. The secretary shall designate a panel, including at least one physician licensed to practice medicine in Kansas and the registry director, which shall establish policies for release of nonconfidential data and shall review requests for the confidential registry data. No restrictions are placed on release of data which are statistical in nature.

HISTORY: L. 1997, ch. 110, sec. 6; July 1.

65-1,174. Same; immunity from civil or criminal liability for reporting; privilege under 60-427 not applicable to reports under this act; section not applicable to unauthorized disclosure due to gross negligence or willful misconduct. Any health care provider, whether a person or institution, who reports cancer information to the registry in good faith and without malice, in accordance with the requirements of this statute, shall have immunity from any liability, civil or criminal, which might otherwise be incurred or imposed in an action resulting from such report. Notwithstanding K.S.A. 60-427 and amendments thereto, there shall be no privilege preventing the furnishing of such information or reports as required by this act by any health care provider. Nothing in this section shall be construed to apply to the unauthorized disclosure of confidential or privileged information when such disclosure is due to gross negligence or willful misconduct.

HISTORY: L. 1997, ch. 110, sec. 7; July 1.

Disaster Emergency Declarations & Planning

DISASTER EMERGENCY DECLARATIONS

48-904. Emergency Preparedness for Disasters. As used in this act:

(a) "Emergency management" means the preparation for and the carrying out of all emergency functions, other than functions for which military forces or other federal agencies are primarily responsible, to prevent, minimize and repair injury and damage resulting from disasters;

(b) "adjutant general" means the adjutant general of the state of Kansas;

(c) "division of emergency management" means the division of emergency management created in the office of the adjutant general by K.S.A. 48-905, and amendments thereto;

(d) "disaster" means the occurrence or imminent threat of widespread or severe damage, injury or loss of life or property resulting from any natural or manmade cause, including, but not limited to, fire, flood, earthquake, wind, storm, epidemics, contagious or infectious disease, air contamination, blight, drought, infestation, explosion, riot or hostile military or paramilitary action;

(e) "unorganized militia" means all able-bodied male and female persons between the ages of 16 and 50 years;

(f) "state disaster emergency plan" means the plan prepared and maintained by the division of emergency management pursuant to K.S.A. 48-926, and amendments thereto;

(g) "local and interjurisdictional disaster emergency plans" means all disaster emergency plans developed and promulgated by county, city and interjurisdictional disaster agencies pursuant to K.S.A. 48-929, and amendments thereto; and

(h) "hazardous material" means any substance or material in a quantity or form which may be harmful or injurious to the health and safety of humans, animals, crops or property when released into the environment. Hazardous material includes, but is not limited to, explosives, radioactive materials, disease-causing agents, flammable liquids, solids or gases, combustible liquids, poisons, poisonous gases, oxidizing materials, corrosive materials, irritants, nonflammable gases, cryogenics and blasting agents.

HISTORY: L. 1951, ch. 323, § 3; L. 1955, ch. 263, § 2; L. 1975, ch. 283, § 1; L. 1980, ch. 158, § 1; L. 1994, ch. 248, § 2; L. 2001, ch. 163, § 10; May 17.

48-924. Disasters; responsibilities of governor; state of disaster emergency. (a) The governor shall be responsible for meeting the dangers to the state and people presented by disasters.

(b) (1) The governor, upon finding that a disaster has occurred or that occurrence or the threat thereof is imminent, shall issue a proclamation declaring a state of disaster emergency.

(2) In addition to or instead of the proclamation authorized by K.S.A. 47-611, and amendments thereto, the governor, upon a finding or when notified pursuant to K.S.A. 47-611, and amendments thereto, that a quarantine or other regulations are necessary to prevent the spread among domestic animals of any contagious or infectious disease, may issue a proclamation declaring a state of disaster emergency.

(3) The state of disaster emergency so declared shall continue until the governor finds that the threat or danger of disaster has passed, or the disaster has been dealt with to the extent that emergency conditions no longer exist. Upon making such findings the governor shall terminate the state of disaster emergency by proclamation, but except as provided in paragraph (4), no state of disaster emergency may continue for longer than 15 days unless ratified by concurrent resolution of the legislature, with the single exception that upon specific application by the governor to the state finance council and an affirmative vote of a majority of the legislative members thereof, a state of disaster emergency may be extended once for a specified period not to exceed 30 days beyond such 15-day period.

(4) If the state of disaster emergency is proclaimed pursuant to paragraph (2), the governor shall terminate the state of disaster emergency by proclamation within 15 days, unless ratified by concurrent resolution of the legislature, except that when the legislature is not in session and upon specific application by the governor to the state finance council and an affirmative vote of a majority of the legislative members thereof, a state of disaster emergency may be extended for a specified period not to exceed 30 days. The state finance council may authorize additional extensions of the state of disaster emergency by a unanimous vote of the legislative members thereof for specified periods not to exceed 30 days each. Such state of disaster emergency shall be terminated on the 15th day of the next regular legislative session following the initial date of the state of disaster emergency unless ratified by concurrent resolution of the legislature.

(5) At any time, the legislature by concurrent resolution may require the governor to terminate a state of disaster emergency. Upon such action by the legislature, the governor shall issue a proclamation terminating the state of disaster emergency.

(6) Any proclamation declaring or terminating a state of disaster emergency which is issued under this subsection shall indicate the nature of the disaster, the area or areas threatened or affected by the disaster and the conditions which have brought about, or which make possible the termination of, the state of disaster emergency. Each such proclamation shall be disseminated promptly by means calculated to bring its contents to the attention of the general public and, unless the circumstances attendant upon the disaster prevent the same, each such proclamation shall be filed promptly with the division of emergency management, the office of the secretary of state and each city clerk or county clerk, as the case may be, in the area to which such proclamation applies.

(c) In the event of the absence of the governor from the state or the existence of any constitutional disability of the governor, an officer specified in K.S.A. 48-1204 and amendments thereto, in the order of succession provided by that section, may issue a proclamation declaring a state of disaster

emergency in the manner provided in and subject to the provisions of subsection (a). During a state of disaster emergency declared pursuant to this subsection, such officer may exercise the powers conferred upon the governor by K.S.A. 48-925, and amendments thereto. If a preceding officer in the order of succession becomes able and available, the authority of the officer exercising such powers shall terminate and such powers shall be conferred upon the preceding officer. Upon the return of the governor to the state or the removal of any constitutional disability of the governor, the authority of an officer to exercise the powers conferred by this section shall terminate immediately and the governor shall resume the full powers of the office. Any state of disaster emergency and any actions taken by an officer under this subsection shall continue and shall have full force and effect as authorized by law unless modified or terminated by the governor in the manner prescribed by law.

(d) A proclamation declaring a state of disaster emergency shall activate the disaster response and recovery aspects of the state disaster emergency plan and of any local and interjurisdictional disaster plans applicable to the political subdivisions or areas affected by the proclamation. Such proclamation shall be authority for the deployment and use of any forces to which the plan or plans apply and for use or distribution of any supplies, equipment, materials or facilities assembled, stockpiled or arranged to be made available pursuant to this act during a disaster.

(e) The governor, when advised pursuant to K.S.A. 74-2608, and amendments thereto, that conditions indicative of drought exist, shall be authorized to declare by proclamation that a state of drought exists. This declaration of a state of drought can be for specific areas or communities, can be statewide or for specific water sources and shall effect immediate implementation of drought contingency plans contained in state approved conservation plans, including those for state facilities.

HISTORY: L. 1975, ch. 283, § 4; L. 1991, ch. 292, § 1; L. 1994, ch. 248, § 12; L. 2001, ch. 163, § 11; May 17.

48-926. State disaster emergency plan; rules and regulations. (a) The division of emergency management shall prepare and maintain a state disaster emergency plan, which may include provisions for:

- (1) Prevention and minimization of injury and damage caused by disaster;
- (2) prompt and effective response to disaster;
- (3) emergency relief;
- (4) identification of areas particularly vulnerable to disasters;

(5) recommendations for zoning, building and other land-use controls, safety measures for securing mobile homes or other nonpermanent or semipermanent structures, and other emergency management measures designed to eliminate disasters or to reduce their impact;

(6) assistance to local officials in designing local and interjurisdictional disaster emergency plans;

(7) authorization and procedures for the erection or other construction of temporary works designed to protect against or mitigate danger, damage or loss from disasters;

(8) preparation and distribution of a list of disaster emergency plans, training programs and other assistance available through federal, state and private assistance programs for the benefit of the state and the counties and cities thereof;

(9) organization of manpower and creation of chains of command;

(10) coordination of federal, state and local emergency management activities;

(11) utilizing the organization, personnel, equipment and resources of the Kansas wing of the civil air patrol; and

(12) such other matters as are necessary to accomplish the purposes of this act.

(b) The state disaster emergency plan, or any part thereof, may be included in rules and regulations adopted by the adjutant general under this act or orders issued by the governor under subsection (b) of K.S.A. 48-925, and amendments thereto.

HISTORY: L. 1975, ch. 283, § 6; L. 1994, ch. 248, § 14; July 1.

48-927. State resources management plan. The division of emergency management shall prepare a state resources management plan to include such economic controls as may be reasonably necessary to effectuate recovery from disasters. Such resources management plan, or any part thereof, may be placed in effect by incorporating the same in orders issued by the governor under subsection (b) of K.S.A. 48-925, and amendments thereto.

HISTORY: L. 1975, ch. 283, § 7; L. 1994, ch. 248, § 15; July 1.

HIV and AIDS

65-6001. Definitions. As used in K.S.A. 65-6001 to 65-6007, inclusive, and K.S.A. 2001 Supp. 65-6008, 65-6009, and 65-6010, and amendments thereto, unless the context clearly requires otherwise:

(a) "AIDS" means the disease acquired immune deficiency syndrome.

(b) "HIV" means the human immunodeficiency virus.

(c) "Laboratory confirmation of HIV infection" means positive test results from a confirmation test approved by the secretary.

(d) "Secretary" means the secretary of health and environment.

(e) "Physician" means any person licensed to practice medicine and surgery.

(f) "Laboratory director" means the person responsible for the professional, administrative, organizational and educational duties of a laboratory.

(g) "HIV infection" means the presence of HIV in the body.

(h) "Racial/ethnic group" shall be designated as either white, black, Hispanic, Asian/Pacific islander or American Indian/Alaskan Native.

(i) "Corrections officer" means an employee of the department of corrections as defined in subsections (f) and (g) of K.S.A. 75-5202, and amendments thereto.

(j) "Emergency services employee" means an attendant or first responder as defined under K.S.A. 65-6112, and amendments thereto, or a firefighter.

(k) "Law enforcement employee" means:

(1) Any police officer or law enforcement officer as defined under K.S.A. 74-5602, and amendments thereto;

(2) any person in the service of a city police department or county sheriff's office who performs law enforcement duties without pay and is considered a reserve officer;

(3) any person employed by a city or county who is in charge of a jail or section of jail, including jail guards and those who conduct searches of persons taken into custody; or

(4) any person employed by a city, county or the state of Kansas who works as a scientist or technician in a forensic laboratory.

(l) “Employing agency or entity” means the agency or entity employing a corrections officer, emergency services employee, law enforcement employee or jailer.

(m) “Infectious disease” means AIDS.

(n) “Infectious disease tests” means tests approved by the secretary for detection of infectious diseases.

(o) “Juvenile correctional facility staff” means an employee of the juvenile justice authority working in a juvenile correctional facility as defined in K.S.A. 38-1602, and amendments thereto.

HISTORY: L. 1988, ch. 232, sec. 1; L. 1990 ch. 234, sec. 1; L. 1996, ch. 215, sec. 1; L. 1998, ch. 187, sec. 12; L. 1999, ch. 109, sec. 1; July 1.

65-6002. Reporting to secretary of health and environment information concerning AIDS; information reported, when; persons reporting; immunity from liability; confidentiality of information; disclosure; use of information to discriminate prohibited.

(a) Whenever any physician has information indicating that a person is suffering from or has died from AIDS, such knowledge or information shall be reported immediately to the secretary, together with the name and address of the person who has AIDS. Any physician or administrator of a medical care facility or such administrator’s designee who is in receipt of a report indicating laboratory confirmation of HIV infection resulting from the examination of any specimen provided to a laboratory by such physician or administrator shall report all such information to the secretary. Reports shall be provided within 30 days of testing and shall include the name and address of the person tested, the type of test or tests performed, the date of performance of the test or tests, the results of the test or tests, the sex, date of birth, county of residence and racial/ethnic group of the person tested.

(b) Whenever any laboratory director has information on laboratory confirmation of HIV infection, this information shall be reported to the secretary. Reports shall be provided within 30 days of testing and shall include the type of test or tests, the results of the test or tests, dates of performance of the test or tests, the name of the physician or facility requesting the test or tests, and any identifying information about the person tested as the laboratory director has access to, such as the name and address of the person tested, the sex, date of birth, county of residence and racial/ethnic group, exposure category and pregnancy status of the person tested.

(c) Any physician, administrator of a medical care facility or such administrator’s designee or laboratory director who reports the information required to be reported under subsection (a) or (b) in good faith and without malice to the secretary shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed in an action resulting from such report. Any such physician, administrator or designee or laboratory director shall have the same immunity with respect to

participation in any judicial proceeding resulting from such report.

(d) Information required to be reported under subsection (a) or (b) and information obtained through laboratory tests conducted by the department of health and environment relating to HIV or AIDS and persons suffering therefrom or infected therewith shall be confidential and shall not be disclosed or made public, upon subpoena or otherwise, beyond the disclosure necessary under subsection (a) or (b) or under subsection (a) of K.S.A. 65-6003 and amendments thereto or the usual reporting of laboratory test results to persons specifically designated by the secretary as authorized to obtain such information, except such information may be disclosed:

(1) If no person can be identified in the information to be disclosed and the disclosure is for statistical purposes;

(2) if all persons who are identifiable in the information to be disclosed consent in writing to its disclosure;

(3) if the disclosure is necessary, and only to the extent necessary, as specified by rules and regulations of the secretary, to protect the public health;

(4) if a medical emergency exists and the disclosure is to medical personnel qualified to treat AIDS or HIV infection, except that any information disclosed pursuant to this paragraph shall be disclosed only to the extent necessary to protect the health or life of a named party; or

(5) if the information to be disclosed is required in a court proceeding involving a minor and the information is disclosed in camera.

(e) Information regarding cases of AIDS or HIV infection reported in accordance with this section shall be used only as authorized under this act. Such information shall not be used in any form or manner which would lead to the discrimination against any individual or group with regard to employment, to provision of medical care or acceptance into any facilities or institutions for medical care, housing, education, transportation, or for the provision of any other goods or services.

HISTORY: L. 1988, ch. 232, sec. 2; L. 1990, ch. 234, sec. 2; L. 1997, ch. 8, sec. 14; L. 1999, ch. 109, sec. 2; L. 2001, ch. 58, sec. 1; July 1.

65-6003. Investigation of cases of AIDS or HIV infection; rules and regulations; protection of public health; disclosure of information; confidentiality; agreements with local boards of health authorized.

(a) The secretary shall investigate cases of persons who have HIV infection or AIDS and

monitor such cases during their continuance. The secretary may adopt and enforce rules and regulations for the prevention and control of HIV infection or AIDS as may be necessary to protect the public health. The secretary shall adopt rules and regulations for maintaining confidentiality of information under this act which at a minimum are as strict as the centers for disease control and prevention guidelines.

(b) Any information relating to person who have AIDS which is required to be disclosed or communicated under subsection (a) shall be confidential and shall not be disclosed or made public beyond the disclosure necessary under subsection (a) or under subsection (a) of K.S.A. 65-6002 and amendments thereto to persons specifically designated by the secretary as authorized to obtain such information, except as otherwise permitted by subsection (d) of K.S.A. 65-6002 and amendments thereto.

(c) The secretary may enter into agreements with any county or joint board of health to perform duties required to be performed by the secretary under subsection (a) as specified by such agreement. The confidentiality requirements of subsection (b) shall apply to any duties performed pursuant to such an agreement.

HISTORY: L. 1988, ch. 232, sec. 3; L. 1999, ch. 109, sec. 3; July 1.

65-6004. Physician authorized to disclose to certain persons information about patient who has an infectious disease or who has had laboratory confirmation of a positive reaction to an infectious disease test; confidentiality of information; immunity in judicial proceedings.

(a) Notwithstanding any other law to the contrary, a physician performing medical or surgical procedures on a patient who the physician knows has an infectious disease or has had laboratory confirmation of a positive reaction to an infectious disease test may disclose such information to other health care providers, emergency services employees, corrections officers or law enforcement employees who have been or will be placed in contact with bodily fluids of such patient. The information shall be confidential and shall not be disclosed by such health care providers, emergency services employees, corrections officers or law enforcement employees except as may be necessary in providing treatment for such patient.

(b) Notwithstanding any other law to the contrary, a physician who has reason to believe that the spouse or partner of a person who has had laboratory confirmation of HIV infection or who has AIDS may have been exposed to HIV and is unaware of such exposure may inform the spouse or partner of the risk of exposure. The information shall be confidential and shall not be disclosed by such spouse or partner to other persons except to the spouse or partner who has had laboratory confirmation of HIV infection or who has AIDS.

(c) Nothing in this section shall be construed to create a duty to warn any person of possible exposure to HIV.

(d) Any physician who discloses or fails to disclose information in accordance with the provisions of this section in good faith and without malice shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed in an action resulting from such disclosure. Any such physician shall have the same immunity with respect to participation in any judicial proceedings resulting from such disclosure.

HISTORY: L. 1988, ch. 232, sec. 4; L. 1990, ch. 234, sec. 3; L. 1993, ch. 221, sec. 1; L. 1996, ch. 215, sec. 2; L. 1999, ch. 109, sec. 4; July 1.

65-6005. Unlawful acts; penalties. Except as otherwise provided in this section, any person violating, refusing or neglecting to obey any provision of K.S.A. 65-6001 through 65-6004, and amendments thereto, or of the rules and regulations adopted by the secretary for the prevention and control of HIV infection or AIDS shall be guilty of a class C misdemeanor. Any person who discloses information which is made confidential and prohibited from disclosure under K.S.A. 65-6002 through 65-6004, and amendments thereto, shall be guilty of a misdemeanor punishable by a fine of not less than \$500 nor more than \$1,000 and by imprisonment in the county jail for not more than six months.

HISTORY: L. 1988, ch. 232, sec. 5; L. 1999, ch. 109, sec. 5; July 1.

65-6006. Educational material explaining AIDS; distribution to district courts; copies provide to parties applying for marriage license. The secretary shall prepare for distribution to the district courts of the state educational material explaining the nature, causes and effects of AIDS and other information relating to AIDS as may be appropriate. The clerks of the district courts or judges thereof, when applied to for a marriage license, shall provide copies of such educational material to the parties to the proposed marriage.

HISTORY: L. 1988, ch. 232, 6; July 1.

65-6007. Establishment and maintenance of sites for anonymous testing for HIV. The secretary shall establish and maintain test sites throughout the state where testing for HIV may be undertaken including anonymous testing. The secretary shall establish test sites throughout the state so that an anonymous test site is available within 100 miles of any resident of the state.

HISTORY: L. 1988, ch. 232, sec. 7; L. 1999, ch. 109, sec. 6; July 1.

65-6008. Infectious disease testing; certain persons in contact with body fluids; hearing; disclosure of test results.

(a) If a corrections officer, emergency services employee, law enforcement employee or juvenile correctional facility staff comes into contact with or otherwise is exposed to transmission of body fluids from one or more other persons while performing duties within the scope of such employee's duties as

an employee, the head of the employing agency or entity may make application to a court of competent jurisdiction for an order requiring such other person or persons to submit to infectious disease tests.

(b) Such application shall include an allegation that the person or persons sought to be tested have been requested to submit voluntarily to infectious disease tests and have refused the tests. When any such application is received, the court shall hold a hearing forthwith and shall issue its order thereon immediately if the court finds that:

(1) There is probable cause to believe that the employee involved has come in contact with or otherwise has been exposed to transmission of the body fluids of the person or persons sought to be tested; and

(2) the person or persons sought to be tested have been requested to submit to tests and have refused, unless the court makes a further finding that exigent circumstances exist which, in the court's judgment, would excuse the applicant from making such a request.

(c) If an infectious disease test ordered pursuant to this section results in a negative reaction, the court shall order the person tested to submit to another infectious disease test six months from the date the first test was administered.

(d) The results of any infectious disease test ordered pursuant to this section shall be disclosed to the court which ordered the test, the employee, and the person tested. If an infectious disease test ordered pursuant to this section results in a positive reaction, the results shall be reported to the employee.

HISTORY: L. 1996, ch. 215, sec. 3; L. 1998, ch. 187, sec. 13; July 1.

65-6009. Same; persons arrested or convicted; disclosure of test results; costs of counseling and testing.

(a) At the time of an appearance before a magistrate under K.S.A. 22-2901 and amendments thereto, the magistrate shall inform any person arrested and charged with a crime in which it appears from the nature of the charge that the transmission of body fluids from one person to another may have been involved of the availability of infectious disease tests and shall cause the alleged victim of such a crime, if any, to be notified that infectious disease tests and counseling are available. If the victim of the crime or the county or district attorney requests the court to order infectious disease tests of the alleged offender or if the person arrested and charged with a crime stated to the law enforcement officer making such arrest that the person arrested and charged with the crime has an infectious disease or is infected with an infectious disease, or used words of like effect, the court shall order the arrested person to submit to infectious disease tests. The results of any test obtained under this section shall be inadmissible in any criminal or civil proceeding.

(b) Upon conviction of a person for any crime which the court determines from the facts of the case involved or was likely to have involved the transmission of body fluids from one person to another, the court:

(1) May order the convicted person to submit to infectious disease tests; or

(2) shall order the convicted person to submit to infectious disease tests if the victim of the crime or the parent or legal guardian of the victim, if the victim is a minor, requests the court to issue such order. If infectious disease tests are ordered under this subsection, the victim of the crime, if any, who is not a minor, shall designate a health care provider or counselor to receive such information on behalf of the victim. If the victim is a minor, the parent or legal guardian of the victim shall designate the health care provider or counselor to receive such information.

(c) The results of any infectious disease test ordered under subsection (a) shall be disclosed to the law enforcement officer making such arrest, the person arrested and such other persons as the court determines have a legitimate need to know the test result in order to provide for their protection. The results of any infectious disease test ordered under subsection (b) shall be disclosed to the court which ordered the test, the convicted person and to the person designated under subsection (b) by the victim or victims of the crime or by the parent or legal guardian of a victim if the victim is a minor. If an infectious disease test ordered under this section results in a positive reaction, the results shall be reported to the secretary of health and environment and to the secretary of corrections.

(d) As used in this section, infectious disease includes HIV and hepatitis B.

(e) The costs of any counseling and testing provided under this section shall be paid from amounts appropriated to the department of health and environment for that purpose. The court shall order the adjudicated person to pay restitution to the department of health and environment for the costs of any counseling provided under this section and the costs of any test ordered or otherwise performed under this section.

HISTORY: L. 1996, ch. 215, § 4; L. 2001, ch. 102, § 5; July 1.

65-6010. Same; withdrawal of blood; confidentiality of information; penalty.

(a) When a court orders a person to submit to infectious disease tests under this act, the withdrawal of the blood may be performed only by:

(1) A person licensed to practice medicine and surgery or a person acting under the supervision of any such licensed person;

(2) a licensed professional nurse or a licensed practical nurse; or

(3) a qualified medical technician. No person authorized by this subsection to withdraw blood, no person assisting in the performance of the infectious disease tests nor any medical care facility where blood is withdrawn or tested that has been ordered by the court to withdraw or test blood shall be liable in any civil or criminal action when the act is performed in a reasonable manner according to generally accepted medical practices.

(b) The results of tests or reports, or information therein, obtained under this act shall be confidential and shall not be divulged to any person not authorized by this act to receive the same. Any violation of this subsection is a class C nonperson misdemeanor.

HISTORY: L. 1996, ch. 215, § 5; July 1.

65-6015. Definitions. As used in K.S.A. 2001 Supp. 65-6015 through 65-6017, and amendments thereto:

(a) "Body fluid" means blood, amniotic fluid, pericardial fluid, pleural fluid, synovial fluid, cerebrospinal fluid, semen or vaginal secretions, or any body fluid visibly contaminated with blood.

(b) "Corrections employee" means an employee of the department of corrections or an employee of a contractor who is under contract to provide services in a correctional institution.

(c) "Offender" means a person in the legal custody of the secretary of corrections.

(d) "Physician" means any person licensed to practice medicine and surgery.

(e) "Infectious disease" means any disease communicable from one person to another through contact with bodily fluids.

HISTORY: L. 1993, ch. 221, § 2; L. 2001, ch. 102, § 1; July 1.

65-6016. Physician authorized to disclose infectious diseases to certain corrections employees; confidentiality; immunity in judicial proceedings.

(a) Notwithstanding any other law to the contrary, a physician performing medical or surgical procedures on a patient who the physician knows has an infectious disease or has had a positive reaction to an infectious disease test may disclose such information to corrections employees who have been or will be placed in contact with body fluid of such patient. The information shall be confidential and shall

not be disclosed by corrections employees except as may be necessary in providing treatment for such patient. Any other disclosure of such information by a corrections employee is a class C misdemeanor.

(b) Nothing in this section shall be construed to create a duty to warn any person of possible exposure to an infectious disease.

(c) Any physician who discloses information in accordance with the provisions of this section in good faith and without malice shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed in an action resulting from such disclosure. Any such physician shall have the same immunity with respect to participation in any judicial proceeding resulting from such disclosure.

HISTORY: L. 1993, ch. 221, § 3; L. 2001, ch. 102, § 2; July 1.

65-6017. Court ordered testing of certain offenders in custody of secretary of corrections.

(a) If a corrections employee has been placed in contact with body fluid from one or more offenders while performing duties within the scope of such employee's duties as a corrections employee, the secretary of corrections or the secretary's designee upon consultation with a medical care provider may make application to the district court of the county where the offender or offenders are in custody for an order requiring such offender or offenders to submit to tests for infectious diseases. Such application shall include an allegation that the offender or offenders sought to be tested have been requested to voluntarily submit to tests for a specific infectious disease or diseases and have refused the tests and that the corrections employee has agreed to voluntarily testing for the same infectious disease, including appropriate follow-up testing. When any such application is received, the court shall hold a hearing forthwith and shall issue its order thereon immediately if the court finds that:

(1) There is probable cause to believe that the employee involved has been placed in contact with body fluid of the offender or offenders sought to be tested; and

(2) the offender or offenders sought to be tested have been requested to submit to the tests and have refused, unless the court makes a further finding that exigent circumstances exist that would, in the court's judgment, excuse the applicant from making such a request. Expenses of the testing shall be assessed as a cost of the proceeding.

(b) If a test for an infectious disease ordered pursuant to this section results in a negative reaction, the court, upon proper application, shall order the offender tested to submit to another test six months after the date the first test was administered.

(c) If a test is ordered pursuant to this section, the corrections employee shall designate a health care provider or counselor to receive the test results on behalf of the corrections employee. The results of

the test shall be disclosed to the court that ordered the test, the person tested and the health care provider or counselor designated by the corrections employee. The results shall also be disclosed to the secretary of corrections for inclusion in the offender's medical records. Test results of the corrections employee shall not be disclosed except as specifically authorized in writing by the employee.

(d) When a court orders an offender to submit to tests under this section which require withdrawal of blood, the withdrawal of the blood may be performed only by:

(1) A physician or a person acting under the supervision of a physician;

(2) a licensed professional nurse or a licensed practical nurse; or

(3) a qualified medical technician. No person authorized by this subsection to withdraw blood, no person assisting in the performance of the tests nor any medical care facility where blood is withdrawn or tested that has been ordered by the court to withdraw or test blood shall be liable in any civil or criminal action when the act is performed in a reasonable manner according to generally accepted medical practices.

(e) The results of tests or reports, or information therein, obtained under this section shall be confidential and shall not be divulged to any person not authorized by law to receive such results, reports or information. Any violation of this subsection is a class C misdemeanor.

HISTORY: L. 1993, ch. 221, § 4; L. 2001, ch. 102, § 3; July 1.

KANSAS JUVENILE JUSTICE CODE

38-1692. Testing for infectious disease and counseling of certain offenders and victims.

(a) As used in this section:

(1) "Adjudicated person" means a person adjudged to be a juvenile offender or a person not adjudicated because of mental disease or defect.

(2) "Laboratory confirmation of HIV or hepatitis B infection" means positive test results from a confirmation test approved by the secretary of health and environment.

(3) "Sexual act" means contact between the penis and the vulva, the penis and the anus, the mouth and the penis, the mouth and the vulva or the mouth and the anus. For purposes of this definition contact involving the penis occurs upon penetration, however slight.

(4) "Test for HIV or hepatitis B infection" means a test approved by the secretary of health and

environment to detect the etiologic agent for the disease acquired immune deficiency syndrome or hepatitis B.

(5) "Body fluids" means blood, semen or vaginal secretions or any body fluid visibly contaminated with blood.

(b) At the time of the first appearance before the court of a person charged with an offense involving a sexual act committed while the person was a juvenile, or in which it appears from the nature of the charge that the transmission of body fluids from one person to another may have been involved, the judge shall inform the person or the parent or legal guardian of the person of the availability of testing for HIV or hepatitis B infection and counseling and shall cause each alleged victim of the offense, if any, to be notified that testing for HIV or hepatitis B infection and counseling is available.

(c) If the victim of the offense requests the court to order infectious disease tests of the alleged offender or if the person charged with the offense stated to law enforcement officers that the person charged with the offense has an infectious disease or is infected with an infectious disease, or used words of like effect, the court shall order the person charged with the offense to submit to infectious disease tests as defined in K.S.A. 65-6001 and amendments thereto.

(d) For any offense by an adjudicated person which the court determines, from the facts of the case, involved or was likely to have involved the transmission of body fluids from one person to another or involved a sexual act, the court: (1) May order the adjudicated person to submit to a test for HIV or hepatitis B infection; or (2) shall order the adjudicated person to submit to a test for HIV or hepatitis B infection if a victim of the offense, or the parent or legal guardian of the victim if the victim is a minor, requests the court to make such order. If a test for HIV or hepatitis B infection is ordered under this subsection, a victim who is an adult shall designate a health care provider or counselor to receive the information on behalf of the victim. If a victim is a minor, the parent or legal guardian of the victim shall designate the health care provider or counselor to receive the information. If the test results in a negative reaction, the court shall order the adjudicated person to submit to another test for HIV or hepatitis B infection six months after the first test was administered.

(e) The results of any test for HIV or hepatitis B infection ordered under this section shall be disclosed to the court which ordered the test, to the adjudicated person, or the parent or legal guardian of the adjudicated person, and to each person designated under subsection (d) by a victim or by the parent or legal guardian of a victim. If a test for HIV or hepatitis B infection ordered under this section results in a laboratory confirmation of HIV or hepatitis B infection, the results shall be reported to the secretary of health and environment and to:

(1) The commissioner of juvenile justice, in the case of a juvenile offender or a person not adjudicated because of mental disease or defect, for inclusion in such offender's or person's medical file; or

(2) the secretary of corrections, in the case of a person under 16 years of age who has been convicted as an adult, for inclusion in such person's medical file. The secretary of health and environment shall provide to each victim of the crime or sexual act, at the option of such victim, counseling regarding the human immunodeficiency virus and hepatitis B, testing for HIV or hepatitis B infection in accordance with K.S.A. 65-6001 *et seq.* and amendments thereto and referral for appropriate health care and services.

(f) The costs of any counseling and testing provided under subsection (e) by the secretary of health and environment shall be paid from amounts appropriated to the department of health and environment for that purpose. The court shall order the adjudicated person to pay restitution to the department of health and environment for the costs of any counseling provided under this section and the costs of any test ordered or otherwise performed under this section.

(g) When a court orders an adjudicated person to submit to a test for HIV or hepatitis B infection under this section, the withdrawal of the blood may be performed only by:

(1) A person licensed to practice medicine and surgery or a person acting under the supervision of any such licensed person;

(2) a licensed professional nurse or a licensed practical nurse; or

(3) a qualified medical technician. No person authorized by this subsection to withdraw blood, no person assisting in the performance of the test for HIV or hepatitis B infection nor any medical care facility where blood is withdrawn or tested that has been ordered by the court to withdraw or test blood shall be liable in any civil or criminal action when the test is performed in a reasonable manner according to generally accepted medical practices.

(h) The results of tests or reports, or information therein, obtained under this section shall be confidential and shall not be divulged to any person not authorized by this section to receive the results or information. Any violation of this section is a class C misdemeanor.

HISTORY: L. 1993, ch. 242, § 1; L. 1995, ch. 251, § 32; L. 1996, ch. 215, § 6; L. 1997, ch. 156, § 76; L. 2001, ch. 102, § 4; July 1.

Immunizations

72-5208. Health tests and inoculations; definitions. As used in this act:

(a) "School Board" means the board of education of a school district and the governing authority of any nonpublic school;

(b) "school" means all elementary, junior high or high schools within the state;

(c) "local health department" means any county or joint board of health established under the laws of Kansas and having jurisdiction over the place where any pupil affected by this act may reside;

(d) "secretary" means the secretary of the state department of health and environment;

(e) "physician" means a person licensed to practice medicine and surgery.

HISTORY: L. 1961, ch. 354, sec. 1; L. 1978, ch. 291, sec. 1; July 1.

72-5209. Health tests and inoculations; certification of completion required, alternatives; duties of school boards.

(a) In each school year, every pupil enrolling or enrolled in any school for the first time in this state, and each child enrolling or enrolled for the first time in a preschool or day care program operated by a school, and such other pupils as may be designated by the secretary, prior to admission to and attendance in school, shall present to the appropriate school board certification from a physician or local health department that the pupil has received such tests and inoculations as are deemed necessary by the secretary by such means as are approved by the secretary. Pupils who have not completed the required inoculations may enroll or remain enrolled while completing the required inoculations if a physician or local health department certifies that the pupil has received the most recent appropriate inoculations in all required series. Failure to timely complete all required series shall be deemed non-compliance.

(b) As an alternative to the certification required under subsection (a), a pupil shall present:

(1) An annual written statement signed by a licensed physician stating the physical condition of the child to be such that the tests or inoculations would seriously endanger the life or health of the child, or

(2) a written statement signed by one parent or guardian that the child is an adherent of a religious denomination whose religious teachings are opposed to such tests or inoculations.

(c) On or before May 15 of each school year, the school board of every school affected by this act shall notify the parents or guardians of all known pupils who are enrolled or who will be enrolling in the school of the provisions of this act and any policy regarding the implementation of the provisions of this act adopted by the school board.

(d) If a pupil transfers from one school to another, the school from which the pupil transfers shall forward with the pupil's transcript the certification or statement showing evidence of compliance with the requirements of this act to the school to which the pupil transfers.

HISTORY: L. 1961 ch. 354, sec. 2; L. 1965, ch. 412, sec. 1; L. 1970, ch. 293, sec. 1; L. 1975, ch. 462, sec. 107; L. 1978, ch. 291, sec. 2; L. 1981, ch. 285, sec. 1; L. 1993, ch. 89, sec. 1; L. 1994, ch. 206, sec. 1; July 1.

72-5210. Same; duties of public health departments and officers; fees, exception to payment. The county, city-county or multicounty health department shall provide without delay and to the extent that funds designated by such health department for the purchase of vaccines are available the tests and inoculations required by this act to such pupils as are not provided therewith by their parents or guardians and who have not been exempted on religious or medical grounds. Such tests and inoculations may be provided on a sliding fee scale for administrative charges with the exception that no child may be denied inoculations for inability to pay an administrative fee. The local health officer shall counsel and advise school boards concerning the administration of this act.

HISTORY: L. 1961, ch. 354, sec. 3; L. 1965, ch. 412, sec. 2; L. 1978, ch. 291, sec.3; L. 1980, ch. 182, sec. 30; L. 1994, ch. 206, sec. 2; July 1.

72-5211. Same; duties of secretary; forms and certificates; regulations. The secretary shall prescribe the content of forms and certificates to be used by the school boards in carrying out this act and shall provide, without cost to the school boards, sufficient copies of this act for distribution to pupils. Schools shall utilize the reporting form adopted by the secretary for documentation of all immunizations. Audit information shall be obtained from this adopted form. The secretary may adopt such regulations as are necessary to carry out the provisions of this act.

HISTORY: L. 1961, ch. 354, sec. 4; L. 1975, ch. 462, sec. 108; L. 1978, ch. 291, sec. 4; L. 1994, ch. 206, sec. 3; July 1.

72-5211a. Exclusion of pupils from school attendance; adoption of policy; notice; hearing; compulsory attendance law not applicable.

(a) The school board of every school affected by this act may exclude from school attendance, or by policy adopted by any such school board, authorize any certificated employee or committee of certificated employees to exclude from school attendance, any pupil who has not complied with the

requirements of K.S.A. 72-5209. A pupil shall be subject to exclusion from school attendance under this section until such time as the pupil shall have complied with the requirements of K.S.A. 72-5209. The policy shall include provisions for written notice to be given to the parent or guardian of the involved pupil. The notice shall (1) indicate the reason for the exclusion from school attendance, (2) state that the pupil shall continue to be excluded until the pupil has complied with the requirements of K.S.A. 72-5209, and (3) inform the parent or guardian that a hearing thereon shall be afforded the parent or guardian upon request therefor.

(b) The provisions of K.S.A. 72-1111 do not apply to any pupil while subject to exclusion from school attendance under the provisions of this section.

HISTORY: L. 1978, ch. 291, sec. 5; L. 1981, ch. 285, sec. 2; July 1.

MATERNITY CENTERS AND CHILD CARE FACILITIES

65-508. Equipment, supplies, accommodations; immunizations.

(a) Any maternity center or child care facility subject to the provisions of this act shall: (1) Be properly heated, plumbed, lighted and ventilated; (2) have plumbing, water and sewerage systems which conform to all applicable state and local laws; and (3) be operated with strict regard to the health, comfort, safety and social welfare of the residents.

(b) Every maternity center or child care facility shall furnish or cause to be furnished for the use of each resident and employee individual towel, wash cloth, comb and individual drinking cup or sanitary bubbling fountain, and toothbrushes for all other than infants, and shall keep or require such articles to be kept at all times in a clean and sanitary condition. Every maternity center or child care facility shall comply with all applicable fire codes and rules and regulations of the state fire marshal.

(c) The secretary of health and environment with the cooperation of the secretary of social and rehabilitation services shall develop and adopt rules and regulations for the operation and maintenance of maternity centers and child care facilities. The rules and regulations for operating and maintaining maternity centers and child care facilities shall be designed to promote the health, safety and welfare of the residents who are to be served in such facilities by ensuring safe and adequate physical surroundings, healthful food, supervision and care of the residents by capable, qualified persons of sufficient number, an adequate program of activities and services and such appropriate parental participation as may be feasible under the circumstances. Boarding schools are excluded from requirements regarding the number of qualified persons who must supervise and provide care to residents.

(d) Each child cared for in a child care facility, including children of the person maintaining the facility, shall be required to have current such immunizations as the secretary of health and environment considers necessary. The person maintaining a child care facility shall maintain a record of each child's immunizations and shall provide to the secretary of health and environment such information relating

thereto, in accordance with rules and regulations of the secretary, but the person maintaining a child care facility shall not have such person's license revoked solely for the failure to have or to maintain the immunization records required by this subsection.

(e) The immunizations requirement of subsection (d) shall not apply if one of the following is obtained:

(1) Certification from a licensed physician stating that the physical condition of the child is such that immunization would endanger the child's life or health; or

(2) a written statement signed by a parent or guardian that the parent or guardian is an adherent of a religious denomination whose teachings are opposed to immunizations.

HISTORY: L. 1919, ch. 210, sec. 8; R.S. 1923, 65-508; L. 1951, ch. 358, sec. 4; L. 1974, ch. 352, sec. 90; L. 1978, ch. 236, sec. 7; L. 1992, ch. 55, sec. 2; L. 1994, ch. 279, sec. 11; L. 1995, ch. 183, sec. 9; L. 1998, ch. 166, sec. 2; July 1.

FAMILY DAY CARE HOMES

65-519. Certificate of registration; conditions; application for; immunizations; renewal fees.

(a) The secretary shall issue a certificate of registration to any person who: (1) Applies for registration on forms furnished by the secretary; (2) attests to the safety of the family day care home for the care of children; (3) submits a fee not to exceed \$15 as established by rules and regulations of the secretary of health and environment payable to the secretary of health and environment; and (4) certifies that no person described in subsection (a)(1), (2), (3), (4), (5) or (6) of K.S.A. 65-516 and amendments thereto resides, works or volunteers in the family day care home. The fee in effect under this subsection (a) immediately prior to the effective date of this act shall continue in effect on and after the effective date of this act until a different fee is established by the secretary of health and environment by rules and regulations under this subsection.

(b) The secretary shall furnish each applicant for registration a family day care home safety evaluation form to be completed by the applicant and submitted with the registration application.

(c) (1) Each child cared for in a family day care home, including children of the person maintaining the home, shall be required to have current such immunizations as the secretary of health and environment considers necessary. The person maintaining a family day care home shall maintain a record of each child's immunizations, and shall provide to the secretary of health and environment such information relating thereto, in accordance with rules and regulations of the secretary, but the person maintaining a family day care home shall not have such person's certificate of registration revoked solely for the failure to have or to maintain the immunization records required by this subsection.

(2) The immunization requirement of subsection (c) (1) shall not apply if one of the following is obtained;

(A) Certification from a licensed physician stating that the physical condition of the child is such that immunization would endanger the child's life or health; or

(B) a written statement signed by a parent or guardian that the parent or guardian is an adherent of a religious denomination whose teachings are opposed to immunizations.

(d) The secretary of health and environment shall provide to each person maintaining a registered family day care home a list of the requirements for registration of family day care homes. The person maintaining a family day care home shall provide a copy of such list to the parent or guardian of each child cared for in such home and shall maintain on the premises a copy of the list which had been signed and dated by the parent or guardian.

(e) The certificate of registration shall be renewed annually in the same manner provided for in this section.

(f) The secretary of health and environment shall remit all moneys received by the secretary from fees under the provisions of this act to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of the remittance, the state treasurer shall deposit the entire amount in the state treasury and credit it to the state general fund.

HISTORY: L. 1980, ch. 184, sec. 5; L. 1982, ch. 259, sec. 3; L. 1983, ch. 140, sec. 47; L. 1984, ch. 225, sec. 2; L. 1986, ch. 230, sec. 3; L. 1992, ch. 55, sec. 1; L. 1994, ch. 279, sec. 18; L. 1995, ch. 183, sec. 10; L. 2001, Ch. 5, sec. 218; July 1.

65-531. Immunization information and records; disclosure. On and after July 1, 1996:

(a) Except as provided further, information and records which pertain to the immunization status of persons against childhood disease as required by K.S.A. 65-508 and 65-519, and amendments thereto, may be disclosed and exchanged without a parent or guardian's written release authorizing such disclosure, to the following, who need to know such information to assure compliance with state statutes or to achieve age appropriate immunization status for children:

(1) Employees of public health agencies or departments;

(2) health records staff of child care facilities and family day care homes, including, but not limited to, facilities licensed by the secretary of health and environment;

(3) persons other than public employees who are entrusted with the regular care of those under the care and custody of a state agency including, but not limited to, operators of day care facilities, group homes, residential care facilities and adoptive or foster homes; and

(4) health care professionals.

(b) Notwithstanding K.S.A. 60-427 and amendments thereto or any other Kansas statute which provides for privileged information between a patient and a health care provider, there shall be no privilege preventing the furnishing of information and records as authorized by this section by any health care provider.

(c) Information and records which pertain to the immunization status of persons against childhood diseases as required by K.S.A. 65-508 and K.S.A. 65-519, and amendments thereto, whose parent or guardian has submitted a written statement of religious objection to immunization as provided in K.S.A. 65-508 or 65-519, and amendments thereto, may not be disclosed or exchanged without a parent or guardian's written release authorizing such disclosure.

HISTORY: L. 1996, ch. 229, sec. 156; July 1.

CHARITABLE HEALTH CARE PROVIDER

75-6102. Definitions. As used in K.S.A. 75-6101 through 75-6118, and amendments thereto, unless the context clearly requires otherwise:

(a) "State" means the state of Kansas and any department or branch of state government, or any agency, authority, institution or other instrumentality thereof.

(b) "Municipality" means any county, township, city, school district or other political or taxing subdivision of the state, or any agency, authority, institution or other instrumentality thereof.

(c) "Governmental entity" means state or municipality.

(d) "Employee" means any officer, employee, servant or member of a board, commission, committee, division, department, branch or council of a governmental entity, including elected or appointed officials and persons acting on behalf or in service of a governmental entity in any official capacity, whether with or without compensation and a charitable health care provider. Employee includes any steward or racing judge appointed pursuant to K.S.A. 74-8818, and amendments thereto, regardless of whether the services of such steward or racing judge are rendered pursuant to contract as an independent contractor, but does not otherwise include any independent contractor under contract with a governmental entity except (1) employees of the United States marshal's service engaged in the transportation of inmates on behalf of the secretary of corrections and (2) a person who is an employee of a nonprofit independent contractor, other than a municipality, under contract to provide educational or

vocational training to inmates in the custody of the secretary of corrections and who is engaged in providing such service in a institution under the control of the secretary of corrections provided that such employee does not otherwise have coverage for such acts and omissions within the scope of their employment through liability insurance contract of such independent contractor; and (3) a person who is an employee of a nonprofit program, other than a municipality, who has contracted with the commissioner of juvenile justice or with another nonprofit program that has contracted with the commissioner of juvenile justice to provide a juvenile justice program for juvenile offenders in a judicial district provided that such employee does not otherwise have coverage for such acts and omissions within the scope of their employment through a liability insurance contract of such nonprofit program. "Employee" also includes an employee of an indigent health care clinic. "Employee" also includes former employees for acts and omissions within the scope of their employment during their former employment with the governmental entity. "Employee" also includes any member of a regional medical emergency response team, created under the provisions of K.S.A. 68-928, and amendments thereto, in connection with authorized training or upon activation for an emergency response.

(e) "Community service work" means public or community service performed by a person (1) as a result of a contract of diversion entered into by such person as authorized by law, (2) pursuant to the assignment of such person by a court to a community corrections program, (3) as a result of suspension of sentence or as a condition of probation pursuant to court order, (4) in lieu of a fine imposed by court order or (5) as a condition of placement ordered by a court pursuant to K.S.A. 38-1663, and amendments thereto.

(f) "Charitable health care provider" means a person licensed by the state board of healing arts as an exempt licensee or a federally active licensee, a person issued a limited permit by the state board of healing arts, a physician assistant licensed by the state board of healing arts or a health care provider as the term "health care provider" is defined under K.S.A. 65-4921, and amendments thereto, who has entered into an agreement with:

(1) The secretary of health and environment under K.S.A. 1992 Supp. 75-6120, and amendments thereto, who, pursuant to such agreement, gratuitously renders professional services to a person who has provided information which would reasonably lead the health care provider to make the good faith assumption that such person meets the definition of medically indigent person as defined by this section or to a person receiving medical assistance from the programs operated by the department of social and rehabilitation services, and who is considered an employee of the state of Kansas under K.S.A. 1992 Supp. 75-6120, and amendments thereto; or

(2) the secretary of health and environment and who, pursuant to such agreement, gratuitously renders professional services in conducting children's immunization programs administered by the secretary; or

(3) a local health department or indigent health care clinic which renders professional services to medically indigent persons or persons receiving medical assistance from the programs operated by the

department of social and rehabilitation services gratuitously or for a fee paid by the local health department or indigent health care clinic to such provider and who is considered an employee of the state of Kansas under K.S.A. 1992 Supp. 75-6120 and amendments thereto. Professional services rendered by a provider under this paragraph (3) shall be considered gratuitous notwithstanding fees based on income eligibility guidelines charged by a local health department or indigent health care clinic and notwithstanding any fee paid by the local health department or indigent health care clinic to a provider in accordance with this paragraph (3).

(g) "Medically indigent person" means a person who lacks resources to pay for medically necessary health care services and who meets the eligibility criteria for qualification as a medically indigent person established by the secretary of health and environment under K.S.A. 1992 Supp. 75-6120, and amendments thereto.

(h) "Indigent health care clinic" means an outpatient medical care clinic operated on a not-for-profit basis which has a contractual agreement in effect with the secretary of health and environment to provide health care services to medically indigent persons.

(i) "Local health department" shall have the meaning ascribed to such term under K.S.A. 65-241 and amendments thereto.

HISTORY: L. 1979, ch. 186, sec. 2; L. 1982, ch. 374, sec. 1; L. 1983, ch. 299, sec. 1; L. 1987, ch. 353, sec. 1; L. 1990, ch. 146, sec. 4; L. 1990, ch. 329, sec. 2; L. 1990, ch. 149, sec. 9; L. 1991, ch. 268, sec. 1; L. 1991, ch. 182, sec. 5; L. 1993, ch. 29, sec. 2; L. 1994, ch. 343, sec. 1; L. 1995, ch. 82, sec. 7; L. 1996, ch. 91, sec. 4; L. 1997, ch. 56, sec. 91; July 1.

Professions and Occupations

MATERNITY CENTERS AND CHILD CARE FACILITIES

65-516. Restrictions on persons maintaining or residing, working or volunteering at child care facility or family day care home.

(a) No person shall knowingly maintain a child care facility or maintain a family day care home if, in the child care facility or family day care home, there resides, works or regularly volunteers any person who:

(1) (A) Has a felony conviction for a crime against persons,

(B) has a felony conviction under the uniform controlled substances act,

(C) has a conviction of any act which is described in articles 34, 35 or 36 of chapter 21 of the Kansas Statutes Annotated and acts amendatory thereof or supplemental thereto or a conviction of an attempt under K.S.A. 21-3301 and amendments thereto to commit any such act, or

(D) has been convicted of any act which is described in K.S.A. 21-4301 or 21-4301a and amendments thereto or similar statutes of other states or the federal government;

(2) has been adjudicated a juvenile offender because of having committed an act which if done by an adult would constitute the commission of a felony and which is a crime against persons, is any act described in articles 34, 35 or 36 of chapter 21 of the Kansas Statutes Annotated and acts amendatory thereof or supplemental thereto, or is any act described in K.S.A. 21-4301 or 21-4301a and amendments thereto or similar statutes of other states or the federal government;

(3) has committed an act of physical, mental or emotional abuse or neglect or sexual abuse as validated by the department of social and rehabilitation services pursuant to K.S.A. 38-1523 and amendments thereto and

(A) the person has failed to successfully complete a corrective action plan which had been deemed appropriate and approved by the department of social and rehabilitation services, or

(B) the record has not been expunged pursuant to rules and regulations adopted by the secretary of social and rehabilitation services;

(4) has had a child declared in a court order in this or any other state to be deprived or a child in need of care based on an allegation of physical, mental or emotional abuse or neglect or sexual abuse;

(5) has had parental rights terminated pursuant to the Kansas juvenile code or K.S.A. 38-1581 through 38-1584, and amendments thereto, or a similar statute of other states;

(6) has signed a diversion agreement pursuant to K.S.A. 22-2906 *et seq.*, and amendments thereto, or an immediate intervention agreement pursuant to K.S.A. 38-1635 and amendments thereto involving a charge of child abuse or a sexual offense; or

(7) has an infectious or contagious disease.

(b) No person shall maintain a child care facility or a family day care home if such person has been found to be a disabled person in need of a guardian or conservator, or both.

(c) Any person who resides in a child care facility or family day care home and who has been found to be a disabled person in need of a guardian or conservator, or both, shall be counted in the total number of children allowed in care.

(d) In accordance with the provisions of this subsection (d), the secretary shall have access to any court orders or adjudications of any court of record, any records of such orders or adjudications, criminal history record information in the possession of the Kansas bureau of investigation and any report of investigations as authorized by subsection (e) of K.S.A. 38-1523 and amendments thereto in the possession of the department of social and rehabilitation services or court of this state concerning persons working, regularly volunteering or residing in a child care facility or a family day care home. The secretary shall have access to these records for the purpose of determining whether or not the home meets the requirements of K.S.A. 65-516 and 65-519 and amendments thereto.

(e) No child care facility or family day care home or the employees thereof, shall be liable for civil damages to any person refused employment or discharged from employment by reason of such facility's or home's compliance with the provisions of this section if such home acts in good faith to comply with this section.

(f) For the purpose of subsection (a)(3), an act of abuse or neglect shall not be considered to have been validated by the department of social and rehabilitation services unless the alleged perpetrator has:

(1) Had an opportunity to be interviewed and present information during the investigation of the alleged act of abuse or neglect; and

(2) been given notice of the agency decision and an opportunity to appeal such decision to the secretary and to the courts pursuant to the act for judicial review and civil enforcement of agency actions.

HISTORY: L. 1980, ch. 184, § 2; L. 1982, ch. 259, § 2; L. 1983, ch. 140, § 46; L. 1984, ch. 225, § 1; L. 1985, ch. 210, § 1; L. 1987, ch. 233, § 1; L. 1988, ch. 232, § 10; L. 1991, ch. 185, § 1; L. 1994, ch. 279, § 15; L. 1996, ch. 229, § 117; July 1, 1997.

REGULATION OF EMBALMERS AND FUNERAL DIRECTORS; FUNERAL ESTABLISHMENTS

65-1751. Denial, suspension or revocation of license or censure of licensee; grounds; procedure; definitions.

(a) The state board of mortuary arts may refuse to issue or renew a license, may revoke or suspend a license or may publicly or privately censure a licensee, upon a finding that a licensee or an applicant for a license:

(1) Has made any misleading, deceptive, untrue or fraudulent statements in applying for or securing an original or renewal license;

(2) has committed an act of unprofessional or dishonorable conduct or professional incompetency;

(3) has been convicted of a felony, and the licensee or applicant for a license is unable to demonstrate to the board's satisfaction that such person has been sufficiently rehabilitated to warrant the public trust, or has been convicted of any offense involving moral turpitude;

(4) has violated any law, ordinance or rule and regulation affecting the handling, custody, care or transportation of dead human bodies;

(5) is rendered unfit to practice embalming or funeral directing by reason of illness, alcohol, chemicals or other types of substances, or as a result of any mental or physical condition when certified by a physician as to unfitness;

(6) has failed or refused to properly protect or guard against contagious, communicable or infectious disease, or the spreading thereof;

(7) has refused to surrender a dead human body upon the request of the next of kin, or legal representative, if there is no next of kin, or person entitled to the custody and control of the body if there is no next of kin available and no legal representative qualified to act;

(8) or the agent, employee or representative thereof, has advertised, solicited or sold merchandise or services in a manner which is fraudulent, deceptive or misleading in form or content;

(9) or the agent, employee or representative thereof, has engaged in the uninvited, in-person solicitation of an actual or potential customer, who, because of the customer's particular circumstances, was vulnerable to undue influence, intimidation, coercion or overreaching or has violated a provision of K.S.A. 65-1752 and amendments thereto;

(10) or the agent, employee or representative thereof, has knowingly engaged in at-need solicitation;

(11) has used or employed, directly or indirectly, any agent, representative or person, for the purpose of contacting public officials or agents of institutions by whose influence dead human bodies may be turned over to a particular licensee or funeral establishment;

(12) has aided or abetted an unlicensed person to practice any activity for which a license is required under article 17 of chapter 65 of the Kansas Statutes Annotated and acts amendatory of the provisions thereof or supplemental thereto;

(13) has had a license to practice embalming or funeral directing revoked or suspended, has been censured or has had other disciplinary action taken against oneself or has had an application for a license denied by the proper licensing authority of another state, territory, District of Columbia or other country, a certified copy of the record of the action of the other jurisdiction being conclusive evidence thereof;

(14) has cheated on or attempted to subvert the validity of the examination for a license;

(15) has been found to be mentally ill, mentally disabled, not guilty by reason of insanity, not guilty because the licensee suffers from a mental disease or defect or incompetent to stand trial by a court of competent jurisdiction;

(16) has failed to furnish the board, or its investigators or representatives, any information legally requested by the board;

(17) has failed to report to the board any adverse action taken against the licensee by another state or licensing jurisdiction, a professional association or society, a governmental agency, by a law enforcement agency or a court for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section;

(18) has an adverse judgment, award or settlement against the licensee resulting from the practice of funeral directing or embalming which related to acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section or has failed to report such matter to the board;

(19) has knowingly submitted any misleading, deceptive, untrue or fraudulent representation on a claim form, bill or statement;

(20) has violated any lawful rules and regulations promulgated by the board or any state or federal law related to the practice of funeral directing, embalming or funeral establishments; or

(21) has failed to pay any fee required under this act.

(b) The board may adopt rules and regulations defining, construing and interpreting the above grounds for licensure action. All administrative proceedings taken by the board pursuant to this section shall be conducted in accordance with the provisions of the Kansas administrative procedure act.

(c) As used in this section:

(1) "License" means an embalmer's license, funeral director's license, assistant funeral director's license, funeral establishment license or branch establishment license.

(2) "At-need solicitation" means any uninvited contact for the purpose of the sale, or attempted sale, of funeral services or merchandise to the family or next of kin of a person after the person's death, or where death is imminent.

HISTORY: L. 1987, ch. 237, § 1; L. 1992, ch. 51, § 3; L. 1995, ch. 86, § 7; L. 1995, ch. 251, § 35; L. 1996, ch. 248, § 1; July 1.

65-1762. Supervision; cremation requirements; authorization form and coroner's permit.

(a) The crematory operator in charge shall supervise the licensed crematory on a full-time or a part-time basis and perform such other duties relating to the supervision of a licensed crematory as prescribed by the board by rules and regulations.

(b) No crematory or crematory operator in charge shall cremate or cause to be cremated any dead human body until it has received:

(1) A cremation authorization form signed by an authorizing agent. The written authorization shall include:

(A) The identity of the dead human body and the time and date of death;

(B) the name of the funeral director or assistant funeral director and the funeral establishment or branch establishment, or the authorizing agent if[*], that obtained the cremation authorization;

(C) notification as to whether the cause of death occurred from a disease declared by the department of health and environment to be infectious, contagious, communicable or dangerous to the public health;

(D) the name of the authorizing agent and the relationship between the authorizing agent and the decedent;

(E) authorization for the crematory to cremate the dead human body;

(F) a representation that the dead human body does not contain a pacemaker or any other

material or implant that may be potentially hazardous or cause damage to the cremation chamber or the person performing the cremation;

(G) the name of the person authorized to receive the cremated remains from the crematory; and

(H) the signature of the authorizing agent, attesting to the accuracy of all representations contained on the cremation authorization form.

(2) A completed and executed coroner's permit to cremate, as is provided in K.S.A. 65-2426a and amendments thereto, indicating that the dead human body is to be cremated.

HISTORY: L. 2001, ch. 183, § 3; Jan. 1, 2002.

65-1713b. Funeral service or interment, who in charge of. Every funeral service or interment, or part thereof, hereafter conducted in this state must be in the actual charge and under the supervision of a Kansas licensed funeral director, or of the duly licensed assistant funeral director: *Provided, however,* That this shall not prevent a family from burying its own dead where death did not result from a contagious, infectious or communicable disease, nor shall it prevent a religious group or sect whose religious belief require the burial of its own dead from conducting such services where death did not result from a contagious, infectious or communicable disease.

HISTORY: L. 1941, ch. 297, § 16; June 30.

65-1766. Rules and regulations; policies; licensure, revocation, suspension or denial of; penalty.

(a) The state board of mortuary arts shall adopt rules and regulations for the administration and implementation of this act. Such rules and regulations shall include the conditions under which dead human bodies of persons who died from an infectious, contagious, communicable or dangerous disease can be transported from any place in the state to a crematory for the purpose of cremation; shall establish minimal standards of sanitation, required equipment and fire protection for all crematories as deemed necessary for the protection of the public.

(b) A crematory operator in charge may adopt reasonable policies, not inconsistent with this act or rules and regulations adopted by the board.

(c) The state board of mortuary arts may refuse to issue or renew a license or revoke or suspend a license for the crematory, upon a finding that the crematory operator in charge:

(1) Has maintained or operated a building or structure within the state as a crematory in violation of the provisions of this act or the rules and regulations adopted by the board of mortuary arts;

(2) has performed a cremation without a cremation authorization form signed by an authorizing agent;

(3) has made any misleading, deceptive, untrue or fraudulent statements in applying for or securing an original or renewal license;

(4) has been convicted of a felony or an offense of moral turpitude, and has not demonstrated to the board's satisfaction that such crematory operator in charge has been sufficiently rehabilitated to warrant the public trust;

(5) has violated any law, ordinance or rule and regulation affecting the handling, custody, care or transportation of dead human bodies or cremated remains;

(6) has been rendered unfit to operate a crematory by reason of illness, alcohol, chemicals or other types of substances, or as a result of any mental or physical condition;

(7) has failed or refused to properly protect or guard against contagious, communicable or infectious disease, or the spreading thereof;

(8) has or such person's agent, employee or representative has advertised, solicited or sold merchandise or services in a manner which is fraudulent, deceptive or misleading in form or content;

(9) has been found by a court of competent jurisdiction to be mentally ill, mentally disabled, not guilty by reason of insanity or incompetent to stand trial by a court of competent jurisdiction;

(10) has failed to furnish the board, its investigators or representatives, information requested by the board;

(11) has failed to report to the board any adverse action taken against the crematory operator in charge or the crematory by another state or licensing jurisdiction, professional association or society, governmental agency, law enforcement agency or a court;

(12) has knowingly submitted any misleading, deceptive, untrue or fraudulent representation on a claim form, bill, statement or similar information to an authorizing agent, consumer or representative of the board;

(13) has had a license to operate a crematory revoked or suspended, or had other action taken against oneself or had an application for a license denied by the proper licensing authority of another state, territory, District of Columbia or other country. A certified copy of the record of the action of the

other jurisdiction being conclusive evidence thereof;

(14) has violated any rules and regulations adopted by the board or any state or federal law related to the practice of operating a crematory; or

(15) has failed to pay any fee required under this act.

(d) All administrative proceedings taken by the board pursuant to this section shall be conducted in accordance with the provisions of the Kansas administrative procedure act.

(e) A violation of this section or any provision of this act is hereby declared to be a class A nonperson misdemeanor.

HISTORY: L. 2001, ch. 183, § 7; Jan. 1, 2002.

LICENSURE OF ENTITIES BY STATE BOARD OF COSMETOLOGY

65-1820a. Nonissuance, nonrenewal, suspension or revocation of license; grounds; board orders requiring remediation of violations.

(a) The board may issue orders which require the remedying of any of the violations specified in subsection (b). If the violations are not remedied in a reasonable time after the order is issued, the board shall issue an order suspending the license of the violator. The board shall follow the procedure provided in the Kansas administrative procedure act to suspend a license.

(b) The board may refuse to issue, renew, suspend or revoke a license for any one or combination of the following reasons:

(1) Malpractice or incompetency;

(2) when an applicant or a licensed barber is or becomes afflicted with an infectious or communicable disease;

(3) advertising by knowingly false or deceptive statements;

(4) advertising, practicing or attempting to practice under a trade name other than one's own;

(5) habitual drunkenness or habitual addiction to habit-forming drugs;

(6) unprofessional conduct;

(7) obtaining or attempting to obtain a license for money other than the required fee, or for any other thing of value or by fraudulent misrepresentations;

(8) the willful failure to display a license to practice barbering as required by K.S.A. 65-1818, and amendments thereto;

(9) practicing or attempting to practice barbering by fraudulent misrepresentations;

(10) the violation of any of the sanitation standards adopted by the secretary of health and environment pursuant to K.S.A. 65-1,148 and amendments thereto for the regulation of barber shops, barber schools and barber colleges; or

(11) the violation of rules and regulations of the board concerning the operation or management of a barber shop, barber school or barber college.

HISTORY: L. 1939, ch. 241, § 13; L. 1970, ch. 255, § 6; L. 1981, ch. 248, § 7; L. 1982, ch. 265, § 7; L. 1984, ch. 313, § 112; L. 1990, ch. 225, § 11; L. 1991, ch. 191, § 1; L. 1992, ch. 112, § 3; July 1.

65-1904b. Persons practicing under laws of other states or jurisdictions; license to practice to practice in Kansas; conditions.

(a) Upon application to the Kansas state board of cosmetology on a form provided for application for a cosmetologist, esthetician, electrologist or manicurist license, accompanied by the application fee, a person practicing as a cosmetologist, esthetician, electrologist or manicurist under the laws of another state or jurisdiction shall be granted a license entitling the person to practice in this state if:

(1) The person is not less than 17 years of age and a graduate of an accredited high school, or equivalent thereof;

(2) the person submits to the board verification of date of birth;

(3) the person submits to the board a written statement from a person licensed to practice medicine and surgery under the laws of any state showing that the person is free from infectious or contagious disease; and

(4) the person meets at least one of the following criteria:

(A) The person's training and qualifications, including examination requirements, are equal to the requirements for licensure in this state; or

(B) the person has been licensed in a state or jurisdiction which has substantially the same requirements for licensure as this state.

(b) The renewal of a license issued pursuant to this section shall be in the manner provided in K.S.A. 65-1904 and amendments thereto.

HISTORY: L. 1943, ch. 222, § 6; L. 1963, ch. 317, § 4; L. 1970, ch. 256, § 5; L. 1975, ch. 322, § 6; L. 1981, ch. 249, § 2; L. 1983, ch. 212, § 5; L. 1987, ch. 238, § 6; L. 1998, ch. 160, § 6; May 21.

Rabies

75-5661. Management of mammal exposed to rabies.

(a) As used in this section, “exposed to rabies” means a bite, scratch or abrasion by a known or suspected rabid mammal, or open wound or mucous membrane contact with the saliva or brain tissue from a known or suspected rabid mammal.

(b) Any law enforcement officer or local health officer, upon private or public property, may take up any mammal which has exposed to rabies a person or other mammal.

(c) The mammal shall be managed in a manner as described in rules and regulations adopted by the secretary of health and environment.

HISTORY: L. 1996, ch. 26, sec. 1; July 1.

21-3418. Permitting dangerous animal to be at large.

Permitting a dangerous animal to be at large is the act of omission of the owner or custodian of an animal of dangerous or vicious propensities who, knowing of such propensities, permits or suffers such animal to go at large or keeps such animal without taking ordinary care to restrain it.

Permitting a dangerous animal to be at large is a class B misdemeanor.

HISTORY: L. 1969, ch. 180, secs. 21-2418; July 1, 1970.

Residential Childhood Lead Poisoning Prevention

65-1,202. Development and implementation of prevention program; licensure training and inspections; fees; rules and regulations. The secretary shall administer the provisions of the residential childhood lead poisoning prevention act. In administering the provisions of the residential childhood lead poisoning prevention act, the secretary shall be authorized to:

(a) Develop and implement a childhood lead poisoning prevention program as necessary to protect the health of the children of Kansas, which may include provisions to:

(1) Investigate the extent of childhood lead poisoning in Kansas;

(2) develop a data management system designed to collect and analyze information on childhood lead poisoning;

(3) develop and conduct programs to educate health care providers regarding the magnitude and severity of and the necessary responses to lead poisoning in Kansas;

(4) issue recommendations for the methods and intervals for blood lead screening and testing of children, taking into account recommendations by the United States centers for disease control and prevention, except that no child shall be screened or tested if the child's parent or guardian objects in writing on the ground that such screening or testing is contrary to the parent's or guardian's religious beliefs and practices;

(5) develop and issue health advisories urging health care providers to conduct blood lead screening of children;

(6) encourage health care providers to ensure that parents and guardians of children are advised of the availability and advisability of screening and testing for lead poisoning;

(7) develop a program to assist local health departments in identification and follow-up of cases of elevated blood lead levels in children and other high-risk individuals; and

(8) in consultation with appropriate federal, state and local agencies, develop a comprehensive public education program regarding environmental lead exposures and lead poisoning by:

(A) Identifying appropriate target groups that are in a position to prevent lead poisoning or reduce the number of children who are exposed to lead;

(B) assessing the information needed for each of the target groups and determine the best means of educating the members of each target groups; and

(C) disseminating the information to the target groups in an effective manner.

(b) adopt rules and regulations necessary for the administration of the residential childhood lead poisoning prevention act including, but not limited to, licensure of business entities and public agencies, certification of individuals, accreditation of training programs, on-site inspections and requirements, notification and record keeping, procedures and work practice standards relating to lead-based paint activities as are necessary to protect the public health and safety;

(c) adopt by rules and regulations a reasonable schedule of fees for the issuance and renewal of certificates and licenses, training program accreditations and on-site inspections. The fees shall be periodically increased or decreased consistent with the need to cover the direct and indirect costs to administer the program. At no time shall such fees exceed those charged by the United States environmental protection agency for the same or similar regulatory programs. The fees shall be based upon the amount of revenue determined by the secretary to be required for proper administration of the provisions of the residential childhood lead poisoning prevention act. State and local health department personnel certifying for the purpose of environmental investigation of lead poisoned children shall be exempted from licensure fees;

(d) conduct on-site inspections of procedures being utilized by a licensees during an actual abatement project and conduct inspection of the records pertaining to the residential childhood lead poisoning prevention act;

(e) adopt rules and regulations regarding the distribution of lead hazard information to owners and occupants of housing prior to conducting renovation activities in housing;

(f) develop rules and regulations to control and disposition and reuse of architectural debris that contains lead-based paint.

HISTORY: L. 1999, ch. 99, sec. 4; Apr. 22.

65-1,210. Same; civil penalties; corrective action; appeals; grants to communities to eliminate hazards.

(a) Any individual, business entity, accredited training program or public agency who violates any provision of the residential childhood lead poisoning prevention act or any rules and regulations adopted under the residential childhood lead poisoning prevention act, in addition to any other penalty or litigation provided by law, may incur a civil penalty imposed under subsection (b) in a maximum amount not to exceed \$1,000 for the first violation, \$5,000 for each subsequent violation and, in the case

of a continuing violation, every day such previously notified violation continues shall be deemed a separate violation.

(b) The secretary, upon finding that any individual, business entity, accredited training program or public agency has violated any provision of the residential childhood lead poisoning prevention act or any rules and regulations adopted under the residential childhood lead poisoning prevention act, may impose a civil penalty within the limits provided in this section upon such individual, business entity, accredited training program or public agency which civil penalty shall be in an amount to constitute an actual and substantial economic deterrent to the violation for which the civil penalty is assessed.

(c) The secretary, upon finding that an individual, business entity, accredited training program or public agency has violated any provision of the residential childhood lead poisoning prevention act or rules and regulations adopted under the residential childhood lead poisoning prevention act, may issue an order finding such individual, business entity, accredited training program or public agency in violation of the residential childhood lead poisoning prevention act and directing the individual, business entity, accredited training program or public agency to take such action as necessary to correct the violation.

(d) No civil penalty shall be imposed under this section except upon the written order of the secretary after notification and hearing, if a hearing is requested, in accordance with the provisions of the Kansas administrative procedure act.

(e) Any individual, business entity, accredited training program or public agency aggrieved by an order of the secretary made under this section may appeal such order to the district court in the manner provided by the act for judicial review and civil enforcement of agency actions.

(f) Any penalty recovered pursuant to the provisions of this section shall be remitted to the state treasurer and deposited in the lead-based paint hazard fee fund.

(g) The secretary shall use penalties recovered pursuant to the provisions of this section to establish a grant program for communities to conduct activities designed to reduce or eliminate exposure of children to residential lead-based paint hazards.

HISTORY: L. 1999, ch. 99, sec. 12; Apr. 22.

Sexually Transmitted Diseases

CHILD HYGIENE

65-153b. Newly born infant; treatment of eyes. Any physician or any person authorized by law to act as an obstetrician shall immediately upon birth of an infant instill in the eyes of such newly born infant a prophylactic solution approved by the secretary of health and environment: Provided, however, that any person or parent shall not be required to employ such prophylactic if objection is made by a written statement to the attending obstetrician within three days from the birth of said child: And provided further, that said written statement shall be attached to the birth certificate.

HISTORY: L. 1929, ch. 218, sec. 2; L. 1974, ch. 352, sec. 14; July 1.

65-153f. Prenatal serological tests for syphilis and hepatitis b; approved laboratories; laboratory reports, confidentiality. Each physician or other person attending a pregnant woman in this state during gestation, with the consent of such woman, shall take or cause to be taken a sample of blood of such woman within 14 days after diagnosis of pregnancy is made. Such sample shall be submitted for serological tests which meet the standards recognized by the United States public health service for the detection of syphilis and hepatitis b to a laboratory approved by the secretary of health and environment for such serological tests. Any state, United States public health service, or United States army, navy or air force laboratory or any laboratory approved by the state health agency of the state in which the laboratory is operated shall be considered approved for the purposes of this act. Any laboratory in this state, performing the tests required by this section shall make a report to the secretary of health and environment of all positive or reactive tests on forms provided by the secretary of health and environment and also shall make a report of the test results to the submitting physician or person attending the woman. Laboratory statements, reports, files and records prepared pursuant to this section shall be confidential and shall not be divulged to or open to inspection by any person other than state or local health officers or their duly authorized representatives, except by written consent of the woman.

HISTORY: L. 1943, ch. 225, sec. 1; L. 1974, ch. 352, sec. 16; L. 1981, ch. 241, sec. 1; L. 1991 ch. 178, sec. 1; L. 1995, ch. 260, sec. 3; July 1.

TREATMENT OF MINORS

65-2892. Examination and treatment of persons under 18 for venereal disease; liability. Any physician, upon consultation by any person under eighteen (18) years of age as a patient, may, with the consent of such person who is hereby granted the right of giving such consent, make a diagnostic examination for venereal disease and prescribe for and treat such person for venereal disease including prophylactic treatment for exposure to venereal disease whenever such person is suspected of having a venereal disease or contact with anyone having a venereal disease. All such examinations and treatment may be performed without the consent of, or notification to, the parent, parents, guardian or any other person having custody of such person. Any physician examining or treating such person for venereal disease may, but shall not be obligated to, in accord with his opinion of what will be most beneficial for

such person, inform the spouse, parent, custodian, guardian or fiance of such person as to the treatment given or needed without the consent of such person. Such informing shall not constitute libel or slander or a violation of the right of privacy or privilege or otherwise subject the physician to any liability whatsoever. In any such case, the physician shall incur no civil or criminal liability by reason of having made such diagnostic examination or rendered such treatment, but such immunity shall not apply to any negligent acts or omissions. The physician shall incur no civil or criminal liability by reason of any adverse reaction to medication administered, provided reasonable care has been taken to elicit from such person under eighteen (18) years of age any history of sensitivity or previous adverse reaction to the medication.

HISTORY: L. 1969, ch. 222, sec. 1; L. 1972, ch. 161, sec. 17; July 1.

Tuberculosis

65-116a. Definitions. As used in this act:

(a) The word "tuberculosis" shall be construed to mean that the disease is in a communicable or infectious stage as established by chest x-ray, microscopical examination of sputum, or other diagnostic procedures approved by the secretary of health and environment; and

(b) the words "health officer" shall include the secretary of health and environment or the secretary's designee and all local health officers.

HISTORY: L. 1957, ch. 467, sec. 1; L. 1974, ch. 352, sec. 5; L. 1975, ch. 311, sec. 1; L. 1980, ch. 182, sec. 18; July 1.

65-116b. Tuberculosis suspects; order by health officer; scope of examination; care and treatment. When any health officer shall have reasonable grounds to believe that any person has tuberculosis in a communicable form and will not voluntarily seek a medical examination, it shall be the duty of such health officer to order such person, either orally or in writing, to undergo an examination by a physician qualified in chest diseases, or at some clinic or medical care facility qualified to make such examinations. It shall be the duty of such suspected person to present himself or herself for examination at such time and place as ordered by the health officer. The examination shall include an x-ray of the chest, examination of sputum, and such other forms and types of examinations as shall be approved by the secretary of health and environment.

If, upon examination, it shall be determined that such person has tuberculosis in an active stage or in a communicable form, then it shall be the duty of such tuberculous person to arrange for admission of himself or herself as a patient in some medical care facility qualified to treat persons with tuberculosis or when there is no danger to the public or to other individuals as determined by the health officer, such person may receive treatment on an outpatient basis.

HISTORY: L. 1957, ch. 467, sec. 2; L. 1974, ch. 352, sec. 6; L. 1975, ch. 311, sec. 2; Oct. 1.

65-116c. Precautions to prevent spread of infection, when; investigations. Whenever it has been determined that any person has tuberculosis in an active stage or in a communicable form, and such person is not immediately admitted as a patient in any medical care facility qualified to treat persons with tuberculosis, it shall be the duty of the health officer to instruct such person as to the precautions necessary to be taken to protect the members of such person's household or the community from becoming infected with tuberculosis communicated by such person, and it shall be the duty of such tuberculous person to conduct himself or herself in such a manner as not to expose members of his or her family or household, or any other person with whom he or she may be associated to danger of

infection, and said health officer shall investigate from time to time for the purpose of seeing if said instructions are being carried out in a reasonable and acceptable manner.

HISTORY: L. 1957, ch. 467, sec. 3; L. 1975, ch. 311, sec. 3; Oct. 1.

65-116d. Failure to do required acts; proceedings by county attorney. Whenever any person shall fail to do any of the following enumerated acts, the health officer shall file a written notice of such failure with the county or district attorney of the county where such person resides, and said county or district attorney shall institute proceedings to enforce the intent and provisions of this act:

(a) Fail or refuse to present himself or herself to any private physician qualified in chest diseases, or at some clinic, or medical care facility qualified to make such examinations, at such time and place as ordered by the health officer.

(b) Fail or refuse to follow the instructions of the health officer or private physicians qualified in chest diseases or qualified clinic or medical care facility as to the precautions necessary to be taken to protect the members of his or her household, or any member of the community, or any other person with whom he or she might be associated from danger of infection by tuberculosis communicated by such person.

HISTORY: L. 1957, ch. 467, sec. 4; L. 1974, ch. 352, sec. 184; L. 1975, ch. 311, sec. 4; Oct 1.

65-116e. Commitment to medical care facility; restraint; discharge, when; recommitment. If any person shall be convicted of any of the violations set forth in paragraphs (a) and (b) of K.S.A. 65-116d, or shall enter a plea of guilty thereto when charged with such violations, then such person shall be committed to a medical care facility qualified to treat tuberculosis. Any patient so committed may, by direction of the health officer or tuberculosis consultant of the medical care facility concerned, be placed apart from the others and restrained from leaving the institution. The tuberculosis consultant of the medical care facility concerned, upon signing and placing among the permanent records of the medical care facility a statement to the effect that such person may be discharged without danger to the health or life of others, may discharge the person so committed at any time during the period of commitment. A copy of such statement shall be sent to the state health officer. If necessary, recommitment may be effected in the same manner as original commitment.

HISTORY: L. 1957, ch. 456, sec. 5; L. 1974, ch. 352, sec. 185; L. 1975, ch. 311, sec. 5; Oct. 1

65-116g. Penalty for violations of act or regulations. Any person who violates any provision of this act, or any rules or regulations of the secretary of health and environment for the enforcement of this act, or violates any of the rules or regulations of any institution while a patient therein, or conducts himself in a disorderly manner, shall be guilty of a misdemeanor.

HISTORY: L. 1957, ch. 467, sec. 7; L. 1974, ch. 352, sec. 7; July 1.

65-116h. Preservation of individual rights. Nothing in this act shall be construed or operate to empower or authorize the secretary of health and environment or the secretary's designee or a local health officer to restrict in any manner the individual's right to select the mode of treatment of his or her choice.

HISTORY: L. 1957, ch. 467, sec. 8; L. 1980, ch. 182, sec. 19; July 1.

65-116i. Expenses of care, maintenance and treatment; payment from state funds. Except as otherwise provided by K.S.A. 65-116l, the expenses incurred in the patient care, maintenance and treatment of patients committed under the provisions of K.S.A. 65-116e, or of other persons having communicable or infectious tuberculosis who voluntarily agree to accept care and treatment shall be paid from state funds appropriated to the department of social and rehabilitation services for the purpose of paying medical care facilities and physicians qualified to treat persons infected with tuberculosis.

HISTORY: L. 1975, ch. 311, sec. 6; Oct 1.

65-116j. Care, maintenance and treatment; powers and duties of the secretary of health and environment. The secretary of health and environment is hereby granted and may exercise the following powers and duties in providing for the care, maintenance and treatment of persons having communicable or infectious tuberculosis.

(a) To select medical care facilities qualified to treat persons infected with tuberculosis for the purpose of caring for, maintaining and treating patients committed in accordance with the provisions of K.S.A. 65-116e and other persons having communicable or infectious tuberculosis who have voluntarily agree to accept care and treatment by a medical care facility on either an inpatient or an outpatient basis;

(b) To inspect the facilities, operations and administration of those medical care facilities receiving financial assistance from the department of social and rehabilitation services for the purpose of providing care, maintenance or treatment for persons infected with communicable or infectious tuberculosis;

(c) To provide public health nursing services to persons having infectious or communicable tuberculosis who are being treated on an outpatient basis; and

(d) To adopt rules and regulations establishing standards for the hospital admission and discharge, care, treatment and maintenance of persons having communicable or infectious tuberculosis.

HISTORY: L. 1975, ch. 311, sec. 7; Oct. 1.

65-116k. Rules and regulations of secretary of social and rehabilitation services; payments

for care and treatment. The secretary of social and rehabilitation services is hereby authorized and directed to adopt rules and regulations establishing reasonable rates and administrative procedures to be followed in making payments to the medical care facilities and physicians providing care and treatment under the provisions of this act. Payments shall only be made directly to medical care facilities and physicians except that this act shall not be deemed to create any rights or causes of action against the state or the secretary of social and rehabilitation services in such a medical care facility or physician, their heirs or assigns. No payments shall be made for expenses incurred prior to the time the secretary assumes payment responsibility and payments made by the secretary on behalf of an individual eligible for payments under the provisions of this act shall constitute a complete settlement of the claim upon which such payment is based.

HISTORY: L. 1975, ch. 311, sec. 8; Oct 1.

65-116l. Use of funds for care, maintenance or treatment; limitations. No funds appropriated to the department of social and rehabilitation services for the purpose of carrying out the provisions of K.S.A. 65-116i shall be used for meeting the cost of the care, maintenance or treatment of any person who has communicable or infectious tuberculosis by a medical care facility on an inpatient basis to the extent that such cost is covered by insurance or other third party payments, or to the extent that such person or a person who is legally responsible for the support of such person is able to assume the cost of such care, maintenance, treatment or transportation. The secretary of social and rehabilitation services in determining the ability of a person to assume such costs shall consider the following factors: (a) The age of such person; (b) the number of such person's dependents and their ages and physical condition; (c) the person's length of care, maintenance or treatment, if such person is the person receiving the care, maintenance or treatment; (d) such person's liabilities; (e) such person's assets; and (f) such other factors as the secretary deems important. The secretary of social and rehabilitation services may adopt rules and regulations necessary to carry out the provisions of this section.

HISTORY: L. 1975, ch. 311, sec. 9; Oct. 1.

65-116m. Recovery of cost of care, maintenance or treatment from third parties. Where funds appropriated to the department of social and rehabilitation services have been expended for the purpose of meeting the cost of care, maintenance or treatment of any person who has communicable or infectious tuberculosis pursuant to the provision of this act and a third party has a legal obligation to pay such cost to or on behalf of the recipient, the secretary of social and rehabilitation services may recover the same from the recipient or from the third party and in all respects shall be subrogated to the rights of the recipient in such cases.

HISTORY: L. 1975, ch. 311, sec. 10; Oct. 1.

HEALTH PROGRAMS

72-5213. Certification of health; form and contents; expense of obtaining; alternative certification.

(a) Every board of education shall require all employees of the school district, who come in regular contact with the pupils of the school district, to submit a certification of health on a form prescribed by the secretary of health and environment and signed by a person licensed to practice medicine and surgery under the laws of any state, or by a person who is registered as a physician's assistant under the laws of this state when such person is working at the direction of or in collaboration with a person licensed to practice medicine and surgery, or by a person holding a certificate of qualification to practice as an advanced registered nurse practitioner under the laws of this state when such person is working at the direction of or in collaboration with a person licensed to practice medicine and surgery. The certification shall include a statement that there is no evidence of a physical condition that would conflict with the health, safety, or welfare of the pupils; and that freedom from tuberculosis has been established by chest x-ray or negative tuberculin skin test. If at any time there is reasonable cause to believe that any such employee of the school district is suffering from an illness detrimental to the health of the pupils, the school board may require a new certification of health.

(b) Upon presentation of a signed statement by the employee of a school district, to whom the provisions of subsection (a) apply, that the employee is an adherent of a religious denomination whose religious teachings are opposed to physical examinations, the employee shall be permitted to submit, as an alternative to the certification of health required under subsection (a), certification signed by a person licensed to practice medicine and surgery under the laws of any state, or by a person who is registered as a physicians's assistant under the laws of this state when such person is working at the direction of or in collaboration with a person licensed to practice medicine and surgery, or by a person holding a certificate of qualification to practice as an advanced registered nurse practitioner under the laws of this state when such person is working at the direction of or in collaboration with a person licensed to practice medicine and surgery that freedom of the employee from tuberculosis has been established.

(c) Every board of education may require persons, other than employees of the school district, to submit to the same certification of health requirements as are imposed upon employees of the school district under the provisions of subsection (a) if such persons perform or provide services to or for a school district which require such persons to come in regular contact with the pupils of the school district. No such person shall be required to submit a certification of health if the person presents a signed statement that the person is an adherent of a religious denomination whose religious teachings are opposed to physical examinations. Such persons shall be permitted to submit, as an alternative to a certification of health, certification signed by a person licensed to practice medicine and surgery under the laws of any state, or by a person who is registered as a physician's assistant under the laws of this state when such person sis working at the direction of or in collaboration with a person licensed to practice medicine and surgery, or by a person holding a certificate of qualification to practice as an advanced registered nurse practitioner under the laws of this state when such person is working at the direction of or in collaboration with a person licensed to practice medicine and surgery that freedom of such persons from tuberculosis has been established.

(d) The expense of obtaining certifications of health and certifications of freedom from tuberculosis may be borne by the board of education.

HISTORY: L. 1963, ch. 358, sec. 2; L. 1974, ch. 300, sec. 1; L. 1975, ch. 370, sec. 1; L. 1980, ch. 219, sec. 1; L. 1999, ch. 116, sec. 50; L. 2000, ch. 13, sec. 1; July 1.

Kansas Disease Control Regulations

General Disease Control

28-1-1. Definitions.

(a) "Carrier" means an infected person (or animal) that harbors a specific infectious agent in the absence of discernible clinical disease and serves as a potential source of infection for humans.

(b) "Chemoprophylaxis" means the administration of a chemical, including antibiotics, to prevent the development of an infection or the progression of an infection to active manifest disease.

(c) "Infectious or contagious (communicable) disease" means a disease of humans or animals resulting from an infection or an illness due to a specific agent or its toxic products which arise through transmission of that agent or its products from a reservoir to a susceptible host, either directly, or indirectly.

(d) "Communicable period" means that time or times during which an infectious agent may be transferred directly or indirectly from an infected person to another person, from an infected animal to a person, or from an infected person to an animal, including arthropods.

(e) "Contact" means a person or animal that has been in association with an infected person or animal or a contaminated environment so as to have had opportunity to acquire the infection.

(f) "Contamination" means the presence of an infectious agent on a body surface, or on or in clothes, bedding, toys, surgical instruments or dressings, or other inanimate articles or substances, including water, milk and food.

(g) "Disinfection" means killing of infectious agents outside the body by chemical or physical means. Concurrent disinfection is the application of disinfective measures as soon as possible after the discharge of infectious material from the body of an infected person, or after the soiling of articles with this infectious discharge, all personal contact with these discharges or articles being minimized before that disinfection. Terminal disinfection is the application of disinfective measures after an infected person or animal has ceased to be a source of infection, has been removed from a specific site or has died and been removed.

(h) "Disease" means a definite morbid process having a characteristic train of symptoms.

(i) "Epidemic (or outbreak)" means the occurrence in a community or region of cases of an illness clearly in excess of normal expectancy and derived from a common or propagated source.

(j) "Incubation period" means the time interval between exposure to an infectious agent and appearance of the first sign or symptom of the disease in question.

(k) "Infection" means the entry and development or multiplication of an infectious agent in the body of humans or animals. Infection is not synonymous with infectious disease; the result may be inapparent or manifest.

(l) "Infectious agent" means an organism, chiefly a microorganism but including helminths, that is capable of producing infection or infectious disease.

(m) "Infestation" means, for persons or animals, the lodgement, development and reproduction of arthropods on the surface of the body or in clothing.

(n) "Isolation" means the separation, for the period of communicability, of infected persons or animals from others, in places and under conditions that prevent the direct or indirect conveyance of the infectious agents from those infected to those who are susceptible or who may spread the agent to others.

(1) When "respiratory isolation" is specified, it shall consist of a private room with door kept closed, handwashing upon entering and leaving the room, and disinfection of articles contaminated with patient secretions. Persons susceptible to the specific disease must wear masks.

(2) "Enteric precautions" shall consist of handwashing upon entering and leaving the patient room, wearing of gloves by all persons having direct contact with the patient or with articles contaminated with fecal material, and wearing of gowns by all persons having direct contact with the patient. Articles contaminated with the patient's urine or feces shall be disinfected or discarded; masks are not necessary.

(3) "Blood precautions" shall consist of use of disposable needles and syringes, disposal of used needles and syringes by incineration, and decontamination and sterilization of all non-disposable equipment which is contaminated by blood.

(o) "Local health officer" means the person appointed as local health officer by the board of county commissioners in accordance with K.S.A. 65-201.

(p) "Nosocomial infection" means an infection originating in a medical facility. This includes infections acquired in the hospital but appearing after discharge; it also includes infections among staff.

(q) "Quarantine" means the limitation of freedom of movement of well persons or domestic animals that have been exposed to a communicable disease. (Authorized by and implementing K.S.A. 1981 Supp. 65-101; effective May 1, 1982.)

Cancer Registry

28-70-1. Definitions.

(a) “Health care institution” means any of the following:

(1) A hospital;

(2) an outpatient surgery center;

(3) a pathology laboratory; or

(4) a radiation oncology center.

(b) “Individual provider” means a person licensed to practice medicine or surgery or a person licensed to practice dentistry.

(c) “Registry” means the cancer registry of the state of Kansas, as established by L. 1997, Ch. 110, Sec. 2 (a). (Authorized by and implementing L. 1997, Ch. 110, Sec. 2; effective Feb. 27, 1998.)

28-70-2. Reporting requirements.

(a) Each health care institution shall, within six months of the date of diagnosis, report to the registry each case of cancer diagnosed or treated, unless exempted under subsection (c) of this regulation.

(1) Each report shall provide all required information available in the medical records that are under the direct control of the reporting health care institution. A health care institution shall not be required to contact the patient, the patient’s family, an individual provider, or another health care institution to obtain additional information not contained in the medical record.

(2) Any health care institution that has medical records of a cancer patient, but has not diagnosed or treated the cancer, shall provide information regarding that patient upon receipt of a written request from the registry.

(3) Each health care institution shall provide annual follow-up information regarding the outcome and status of each patient receiving cancer diagnostic or therapeutic services, upon receipt of a written request from the registry.

(4) Any pathology laboratory may submit a pathological report of each cancer to fulfill the laboratory’s reporting requirement.

(b) Upon receipt of a request for information from the registry regarding a patient, each individual provider shall provide the requested information that is contained in medical records under the direct control of the provider.

(1) An individual provider shall not be required to report cancer cases, unless it receives a request for information from the registry regarding a specific patient;

(2) An individual provider shall not be required to contact the patient, the patient's family, a health care institution, or another individual provider to obtain additional information not contained in the medical record that is in the direct control of the provider.

(3) Each individual provider shall fulfill reporting requirements by completing any one of the following actions:

(A) Reporting to the registry the name of the hospital, outpatient surgery center, or radiation oncology center where the patient received cancer-related care.

(B) submitting, to the registry, copies of outpatient records, including surgical reports, cancer diagnostic reports, tumor histologic reports, and patient identification forms; or

(C) submitting a short form, supplied by the registry, that requests demographics, tumor histology and staging, patient identifiers, and names of treating institutions.

(c) Reports are not required for the following cancers:

(1) Squamous cell carcinoma of the skin, unless located on a lip of the face or in the genital areas, or unless spread beyond local tissues at diagnosis;

(2) basal cell carcinoma of the skin, unless located on a lip of the face or in the genital areas, or unless spread beyond local tissues at diagnosis; and

(3) carcinoma in situ of the uterine cervix.

(d) Reports from health care institutions shall include the following information if available:

(1) Patient demographics;

(2) diagnostic results and treatment;

(3) outcome, recurrence, and date of death, if applicable;

(4) cancer site, histology, and stage;

(5) confidential patient identifiers, including the following:

(A) Full name;

(B) alias;

(C) maiden name;

(D) name of spouse;

(E) medical record number;

(F) social security number;

(G) street address at the time of diagnosis;

(H) current street address; and

(I) current telephone number;

(6) confidential provider information, including names and address of health care institutions and individual providers of health care;

(7) history of abortion; and

(8) other variables identified as necessary by the registry director and approved by the secretary.

(e) Reports to the registry shall be in one of the following formats;

(1) American standard code for information interchange (ASCII) file in the North American association of central cancer registries (NAACCR) format;

(2) paper forms provided by the registry;

(3) a copy of the pathology laboratory report, if received from a pathology laboratory; or

(4) other formats identified as acceptable by the registry director.

(f) Any data transferred to the registry shall be secure and confidential.

(1) All paper data transferred to the registry shall be sealed in an envelope marked “CONFIDENTIAL” and addressed to the registry director.

(2) Electronic data transfer may be made by one of the following methods:

(A) Diskette mailed in a sealed envelope marked “CONFIDENTIAL” and addressed to the registry director; or

(B) electronic transmission, if encrypted, according to prior instructions from the registry director. (Authorized by and implementing L. 1997, Ch. 110, Sec. 2: effective Feb. 27, 1998.)

28-70-3. Use and access.

(a) For purposes of ascertaining accuracy and completeness of cancer data, a person representing the registry may review the medical diagnosis of each person cared for by any individual provider or any health care institution, and may review the medical records of any person with cancer. Review shall be made by prearrangement with the individual provider or health care institution.

(b) Any person who requests access to confidential registry data shall submit the request to a review panel as established by L. 1997, Ch. 110, Sec. 6, and amendments thereto. When the requestor demonstrates to the satisfaction of the review panel that the request complies with one or more of the conditions as defined in L. 1997, Ch. 110, Sec. 5, subsections (c) to (f), and amendments thereto, confidential data may be released by the panel. (Authorized by L. 1997, Ch. 110, Sec. 2; implementing L. 1997, Ch. 110, Sec. 4 and Sec. 5; effective Feb. 27, 1998.)

Disease Reporting

28-1-2. Designation of infectious or contagious diseases.

(a) The following diseases shall be designated as infectious or contagious in their nature, and cases or suspect cases shall be reported, in accordance with K.S.A. 65-118 and K.S.A. 65-128, and amendments thereto:

- (1) amebiasis;
- (2) anthrax (report by telephone immediately to the secretary);
- (3) botulism (report by telephone immediately to the secretary);
- (4) brucellosis;
- (5) campylobacter infections;
- (6) chancroid (report by telephone immediately to the secretary);
- (7) *Chlamydia trachomatis* genital infection;
- (8) cholera (report by telephone immediately to the secretary);
- (9) cryptosporidiosis;
- (10) diphtheria;
- (11) encephalitis, infectious (indicate infectious agent whenever possible);
- (12) ehrlichiosis;
- (13) *Escherichia coli* enteric infection from *E. coli* O157:H7 and other enterohemorrhagic, enteropathogenic, and enteroinvasive *E. coli*;
- (14) giardiasis;
- (15) gonorrhea;

- (16) *Haemophilus influenzae*, invasive disease;
- (17) hemolytic uremic syndrome, postdiarrheal;
- (18) hepatitis, viral and acute;
- (19) hantavirus pulmonary syndrome;
- (20) legionellosis;
- (21) leprosy (Hansen's disease);
- (22) listeriosis;
- (23) Lyme disease;
- (24) malaria;
- (25) measles or rubeola (report by telephone immediately to the secretary);
- (26) meningitis, bacterial (indicate causative agent, if known and report by telephone immediately to the secretary);
- (27) meningococemia (report by telephone immediately to the secretary);
- (28) mumps (report by telephone immediately to the secretary);
- (29) pertussis or whooping cough (report by telephone immediately to the secretary);
- (30) plague (report by telephone immediately to the secretary);
- (31) poliomyelitis (report by telephone immediately to the secretary);
- (32) psittacosis;
- (33) rabies, animal and human (report by telephone immediately to the secretary);
- (34) Rocky Mountain spotted fever;

(35) rubella, including congenital rubella syndrome (report by telephone immediately to the secretary);

(36) salmonellosis, including typhoid fever;

(37) shigellosis;

(38) Streptococcal invasive disease from group A *Streptococcus* or *Streptococcus pneumoniae*;

(39) syphilis, including congenital syphilis;

(40) tetanus;

(41) toxic-shock syndrome, streptococcal and staphylococcal;

(42) trichinosis;

(43) tuberculosis (report by telephone immediately to the secretary);

(44) tularemia; and

(45) varicella or chickenpox deaths;

(46) yellow fever; and

(47) any exotic or newly recognized disease, and any disease unusual in incidence or behavior, and constituting a risk to the public health.

(b) The occurrence of a single case of any unusual disease or manifestation of illness that the health care provider determines or suspects may be caused by or related to a bioterrorist agent or incident shall be reported immediately by telephone to the secretary of health and environment by the health care provider and the hospital, emergency department, clinic, health care center, and laboratory in which the person is examined, tested or treated. The following shall be considered bioterrorism agents when identified in the course of a possible bioterrorism act:

(1) Anthrax;

(2) plague;

(3) smallpox;

(4) tularemia;

(5) botulism;

(6) viral hemorrhagic fever;

(7) Q fever;

(8) brucellosis; and

(9) any other infectious or toxic agent that can be intentionally dispersed into the environment. (Authorized by K.S.A. 65-101 and 65-128; implementing K.S.A. 65-128 and 65-202; effective May 1, 1982; amended May 1, 1986; amended Dec. 24, 1990; amended April 19, 1993; amended Jan. 12, 1996; amended Dec. 1, 1997; amended Feb. 18, 2000.)

28-1-4. Registration of disease prevalence.

(a) The administrator of each hospital licensed in the state shall report the following diseases to the secretary of health and environment for registration on forms provided by the department:

(1) All diseases listed in K.A.R. 28-1-2;

(2) cancer; as required by K.A.R. 28-70-2;

(3) congenital malformations in infants under one (1) year of age;

(4) acquired immune deficiency syndrome; and

(5) fetal alcohol syndrome.

(b) The administrator of each hospital licensed in the state may designate a person within the hospital to report diseases on behalf of the individuals required by K.S.A. 65-118, and amendments thereto, to report these diseases for cases that these individuals observe while practicing at the hospital. Each report from the designated hospital person shall fulfill all reporting requirements for individuals required by K.S.A. 65-118, and amendments thereto, to report these cases.

(c) All reports pursuant to this regulation shall be confidential medical information. (Authorized by K.S.A. 65-101, implementing K.S.A. 65-102 and K.S.A. 65-118; effective May 1, 1982; amended May 1, 1986; amended Jan. 12, 1996; amended Oct. 16, 1998.)

28-1-18. Notification of Kansas department of health and environment by laboratories of positive reaction to tests for certain diseases.

(a) To assist in the control of disease in Kansas, each person who is in charge of a clinical laboratory shall notify the Kansas department of health and environment within 48 hours after testing, unless otherwise specified in this regulation, any specimen derived from the human body that yields microscopical, cultural, immunological, serological or other evidence suggestive of those diseases that are significant from a public health standpoint.

(b) (1) Each notification shall include the following:

(A) the date and result of the test performed;

(B) the name of the person from whom the specimen was obtained;

(C) when available, the date of birth or the age and the address and telephone number of the person from whom the specimen was obtained; and

(D) when available, the name and address of the physician for whom the examination or test was performed, and any other information required by the secretary.

(2) A legible copy of the laboratory report delivered by confidential electronic transmission or mail, or a confidential telephone communication of the laboratory report shall satisfy the notification requirement of this subsection.

(c) The conditions or diseases to which this regulation applies shall include the following:

(1) All diseases listed in K.A.R. 28-1-2;

(2) all blood lead level test results as follows:

(A) Blood lead level test results greater than or equal to 10 micrograms per deciliter for persons less than 18 years of age, and greater than or equal to 25 micrograms per deciliter for persons 18 years of age or older shall be reported within 48 hours; and

(B) blood lead level test results less than 10 micrograms per deciliter for less than 18 years of age, and less than 25 micrograms per deciliter for persons 18 years of age or older shall be reported within 30 days; and

(3) CD4+ T-lymphocyte count of less than 500 per microliter or a CD4+ T-lymphocyte percent of total lymphocytes less than 29;

(d) Isolates of positive cultures of the following microorganisms shall be sent to the Kansas health and environmental, division of health and environment laboratory, unless this requirement is waived under special circumstances by the secretary of health and environment:

(1) Salmonella;

(2) shigella;

(3) Escherichia coli O157:H7; and other enterohemorrhagic, enteropathogenic, and enteroinvasive *E. coli*;

(4) *Neisseria meningitidis*;

(5) streptococcal invasive disease from group A *Streptococcus* or *Streptococcus pneumoniae*;
and

(6) *Mycobacterium tuberculosis*.

(e) All laboratory notifications required in this regulation shall be confidential and shall not open to public inspection, as provided in K.S.A. 65-118 and amendments thereto. (Authorized by and implementing K.S.A. 65-101, K.S.A. 2001 Supp. 65-118, and K.S.A. 65-128; effective, E-68-22, Aug. 9, 1968; effective Jan. 1, 1969; effective May 1, 1986, amended Aug. 23, 1993; amended Jan. 12, 1996; amended Dec. 1, 1997; amended Feb. 18, 2000; amended, T-28-8-9-02 Aug. 9, 2002.)

HIV and AIDS

28-1-26. Protection of confidentiality of information regarding individuals with HIV infection.

(a) Definitions. The following definitions shall have the meaning specified below:

(1) “AIDS” means the acquired immune deficiency syndrome.

(2) “Authorized personnel” means individuals who have signed a confidentiality statement.

(3) “Confidentiality statement” means a written statement, dated and signed by an applicable individual, that certifies the individual's agreement to abide by the security policy of a public health agency and this regulation.

(4) “Counseling and testing site” means a site where counseling and testing for HIV infection is available.

(5) “HIV” means the human immunodeficiency virus.

(6) “HIV confidential information” means all combinations of individual data elements or information collected for surveillance purposes under the requirements of K.S.A. 65-6002 and amendments thereto, in electronic or hard copy, that could identify anyone with HIV or AIDS, including the name, date of birth, address, and other identifying information.

(7) “HIV confidentiality officer” means the official in the public health agency responsible for implementing and enforcing all the measures to protect HIV confidential information as defined under this regulation.

(8) “HIV infection” means the presence of HIV in the body.

(9) “HIV report” means a report of HIV infection or AIDS transmitted to a public health agency under the requirements of K.S.A. 65-6002 and amendments thereto.

(10) “Public health agency” means any organization operated by any state or local government that acquires, uses, discloses, or stores HIV confidential information for public health purposes.

(11) “Secretary” means the secretary of health and environment.

(12) "Secured area" means the physical confinement limiting where HIV confidential information is available.

(13) "Written security policy" means written specifications of the measures adopted to protect HIV confidential information and a description of how to implement these measures.

(b) Each public health agency shall appoint an HIV confidentiality officer, who shall have the authority to make decisions about the agency operations that may affect the protection of HIV confidential information.

(c) HIV confidential information shall be maintained in a secured area that is not easily accessible through a window and that is protected by a locked door. Access to the secured area shall be limited to authorized personnel only, and "Restricted area--No unauthorized access" signs shall be prominently posted. Access to the secured area by cleaning crews and other building maintenance personnel shall be granted only during hours when authorized personnel are available for escort or under conditions in which the data is protected by security measures specified in the written security policy.

(d) Hard copy records containing HIV confidential information shall be kept in a locked cabinet located in a secured area, except when in use by authorized personnel. Records shall not be removed from a secured area without authorization from the HIV confidentiality officer.

(e) Electronic records containing HIV confidential information shall be kept on computers protected by coded, individual passwords and located in a secured area. Transfer of records onto removable electronic media shall occur only if absolutely necessary for HIV surveillance program operations and shall be authorized by the HIV confidentiality officer. The records shall always be encrypted before the transfer to the removable media. Exchange of HIV confidential information using electronic mail shall be done only if encryption procedures are utilized.

(f) HIV confidential information shall be permanently removed from HIV records as soon as the information is no longer necessary for the purposes of the control of HIV infection.

(g) Mail containing HIV confidential information shall not include on the envelope or address any reference to the HIV infection, to the HIV virus, or to AIDS.

(h) All telephone conversations in which HIV confidential information is exchanged shall be conducted in a manner that prevents the conversations from being overheard by unauthorized persons.

(i) Each public health agency shall adopt and implement a written security policy related to HIV confidential information consistent with the provisions of this regulation. A copy of the security policy shall be distributed to all authorized personnel.

(j) Access to HIV confidential information shall be restricted to a minimum number of authorized personnel trained in confidentiality procedures and aware of penalties for the unauthorized disclosure of HIV confidential information. The HIV confidentiality officer shall authorize the persons who may have access to HIV confidential information and shall keep a list of authorized personnel.

(k) A confidentiality agreement shall be signed by each person authorized to access HIV confidential information. The HIV confidentiality officer shall maintain a copy of the confidentiality agreement for all authorized personnel.

(l) HIV confidential information shall not be cross-matched with records in other data bases if the resulting cross-matched data bases do not have equivalent security and confidentiality protections, and penalties for unauthorized disclosure as those for the HIV confidential information.

(m) The use of records containing HIV confidential information for research purposes shall be approved by institutional review boards, and all researchers shall sign confidentiality statements. Information made available for epidemiologic analyses shall not include names or other HIV confidential information and shall not result in the direct or indirect identification of persons reported with HIV and AIDS.

(n) Any security breach of HIV confidential information shall be investigated by the HIV confidentiality officer, and personnel sanctions and criminal penalties shall be imposed as appropriate. The HIV confidentiality officer shall make an immediate telephone notification to the secretary that a breach of HIV confidential information occurred and shall transmit to the secretary a written report within seven days from the time the breach is discovered.

(o) The provisions contained in this regulation shall apply to all individuals required to send HIV reports to the secretary under K.S.A. 65-6002, and amendments thereto, and to counseling and testing sites that receive funds from public health agencies. (Authorized by K.S.A. 65-101, 65-128, and 65-6003, as amended by L. 1999, ch. 109, sec. 3; implementing K.S.A. 65-128 and K.S.A. 1998 Supp. 65-6002, as amended by L. 1999, ch. 109, sec. 2; effective Feb. 18, 2000.)

Immunizations

28-1-20. Immunizations required for school entry.

(a) The inoculations for disease prevention which pupils shall receive before enrolling in any Kansas school for the first time are: diphtheria, pertussis (whooping cough), tetanus, poliomyelitis, mumps, rubella (German measles) and measles (rubeola).

(b) The vaccines utilized for these inoculations shall be selected from those licensed for this purpose under section 351 of the public health service act, 42 U.S.C. 262, as administered by the bureau of biologics, food and drug administration, public health service, U.S. department of health education, and welfare.

(c) The immunization record of each pupil shall indicate that inoculation with the delineated vaccines, as approved, has been accomplished by a licensed physician or local health department in accordance with the immunization schedule published by the Kansas department of health and environment or the American academy of pediatrics. (Authorized by K.S.A. 1978 Supp. 72-5209; effective, E-79-18, July 20, 1978; effective May 1, 1979.)

LICENSED DAY CARE HOMES AND GROUP DAY CARE HOMES FOR CHILDREN

28-4-117. Health care policies for children under 16 years of age.

(a) Physical health of children.

(1) (A) A completed medical record on a form supplied by the department shall be on file for each child under 11 years of age enrolled for care, and for each child under 16 living in the facility. Each school age child enrolled in a licensed day care home or group day care home prior to the effective date of this regulation and who is enrolled in a school district which does not require a health assessment prior to school entrance shall be exempt from K.A.R. 28-4-117(a)(1)

(B) The medical record shall include the results of a health assessment conducted by a nurse trained to perform health assessments or a licensed physician, within six months prior to initial enrollment in a child care facility.

(C) A record of health assessment on a form supplied by a school may be substituted for the form supplied by the department. A medical history shall be obtained from the parent on the department form.

(2) A child under 16 years of age shall not be required to have routine tuberculin tests.

(b) (1) Immunizations for each child, including each child of the provider under 16 years of age shall be current or in process in accordance with the child's age and shall be maintained current for protection against diphtheria, pertussis, tetanus, measles, mumps, rubella, and poliomyelitis. A record of each child's immunizations shall be maintained on the child's medical record.

(2) Exceptions to health assessments and immunizations shall be permitted if one of the following is obtained:

(A) certification from a licensed physician stating the physical condition of the child is such that the test and immunization would seriously endanger the child's life or health; or

(b) a written statement signed by one parent or guardian that the parent or guardian is an adherent of a religious domination whose religious teachings are opposed to health assessments or such tests and immunizations.

(c) When an infant is enrolled who has not been immunized against measles, mumps and rubella because of the age of that child, and there are children in care who have not had measles, mumps and rubella immunizations due to exemption, including the children of the provider, the parents of the infant at risk shall sign a statement that they have been informed of the risk to their child. This statement shall be in the infant's file at the day care or group day care home.

(d) When a child is moved to a different child care provider, a new health assessment shall not be required if the previous medical record is available.

(e) Each licensee shall provide information to parents of children in the licensee's program about the value of annual well-child health assessments for children under the age of six years and bi-annual health assessments for children six years of age and older. Each licensee shall also provide information about the importance of seeking medical advice when children exhibit health problems. This information may consist of a Kansas department of health and environment pamphlet given to the parent at the time the child is enrolled, or posted in a conspicuous place, with copies of the pamphlets available to parents on request. (Authorized by K.S.A. 65-508; implementing K.S.A. 65-507, 65-508, and K.S.A. 1988 Supp.65-510; effective E-80-18, Oct. 17, 1979; effective May 1, 1980; amended May 1, 1981; amended, T-83-27, Sept. 22, 1982; amended May 1, 1983; amended May 1, 1984; amended May 1, 1985; amended May 1, 1986; amended Feb. 26, 1990.)

GROUP BOARDING HOMES AND RESIDENTIAL CENTERS FOR CHILDREN AND YOUTH

28-4-275. Health care.

(a) General health policies.

(1) Smoking shall be confined to designated smoking areas in the facility.

(2) Alcohol or non-prescribed controlled substances, as defined in K.S.A. 65-4101 and any amendments to it, shall not be consumed by any resident, by any staff person while on duty, or by any staff person in the presence of residents.

(b) (1) The licensee, in consultation with a physician or community health nurse, shall develop written policies for implementing the health program in the following areas:

(A) Health examination for residents and staff;

(B) continuing health care;

(C) dental examination and follow-up dental care;

(D) corrections of medical problems;

(E) special examinations such as vision, hearing and neurological exams;

(F) care of minor illness including use of non-prescription drugs; and

(G) consultation for the individual child when indicated.

(2) (A) Use of sharp or dangerous instruments and tools by residents shall be supervised by staff.

(B) Firearms and ammunition, and household poisons and other hazardous substances shall be in locked storage.

(C) Internal and external medications shall be in separate locked storage in a supervised location.

(3) Each prescription medicine shall have the name of the individual recipient and the physician, and shall show the dosage and time. A record shall be kept in the resident's file as to who gave the medication and when it was given. Each unused or expired medication shall be safely discarded.

(4) Medications requiring refrigeration shall be labeled and kept in locked storage in the refrigerator.

(c) Physical health of residents and children of staff.

(1) Physical health.

(A) A health assessment for each resident and for each child of a staff member shall be obtained within six months prior to or not more than 30 days after admission of the resident or employment of the parent. The assessment shall be conducted by a licensed physician or by a nurse approved by the Kansas department of health and environment to conduct the assessment.

(B) Health assessments shall be required annually for residents to age six and every three years for residents over the age of six. Results of the health assessment shall be recorded on forms supplied by the Kansas department of health and environment.

(C) Each person under 16 years of age who lives in the facility shall have current immunizations according to the schedule recommended by the center for disease control.

(2) Health care.

(A) A current health record shall be kept for each resident. The record shall include pertinent information about health status, developmental progress, and special needs, with appropriate plans to meet these needs.

(B) The staff shall update the health information as determined by the program's specific health policies and use the information as a basis for review and evaluation of the resident's health status.

(3) Residents in emergency care shall be exempt from K.A.R. 28-4-275(c)(1) and (2).

(4) Each child care staff member shall be trained in observation of symptoms of illness, in elementary principles of first aid, and accident prevention.

(5) The staff of the facility shall obtain immediate medical treatment for any resident who is seriously injured or ill, and shall notify the placing agent, the parent, as dictated by the care plan, and the local health department of the injury or illness as soon as possible.

(6) Staff members, as required by law, shall report any evidence of suspected child abuse or neglect of residents to the Kansas state department of social and rehabilitation services, or the appropriate law enforcement agency when Kansas state department of social and rehabilitation services offices are closed.

(d) Dental health of residents.

(1) A pre-admission dental examination obtained within a year prior to or within 60 days after admission shall be required for each resident except residents in emergency care.

(2) Follow-up dental correction shall be provided, and shall be noted in the resident's file.

(3) The facility staff shall develop plans for dental health education and supervise the residents in the practice of good oral hygiene. (Authorized by and implementing K.S.A. 65-508; effective May 1, 1986; amended May 1, 1987.)

FAMILY FOSTER HOMES FOR CHILDREN AND YOUTH

28-4-316. Health care policies.

(a) Medical and dental health of foster children.

(1) Each foster parent shall obtain emergency and on-going medical and dental care for foster children.

(2) A record of the foster child's health assessment, conducted within the past year by a nurse approved to conduct assessments, or by a licensed physician, shall be on file within 30 days of the placement. The record shall be kept on forms supplied by the Kansas department of health and environment.

(3) Health assessments shall be obtained annually for each foster child under six years of age and every three years for each foster child who is six years of age and over.

(4) Children under 16 years of age shall not be required to have tuberculin tests unless they have been recently exposed to or exhibit symptoms compatible with tuberculosis.

(5) Immunizations for each foster child under 16 years of age shall be current or in process at the time the license is issued.

(6) Exemptions to immunizations shall be permitted if:

(A) Certification is obtained from a licensed physician, stating that the physical condition of the child is such that the immunization would endanger the child's life or health; or

(B) A written statement, signed by a parent or guardian, is obtained indicating that he or she is an adherent of a religious denomination whose teachings are opposed to immunizations for the child.

(7) An annual dental examination shall be obtained for each child who is three years of age or older. Follow-up care shall be provided.

(8) Each child's medical record shall be kept current. When the child leaves the home, the record shall be given to the placing agent to accompany the child.

(b) Physical health of the foster family, under 16 years of age.

(1) Each person under 16 years of age living in the home shall have a health assessment conducted by a licensed physician, or by a nurse approved to perform health assessments, within one year prior to the date of the application. The results shall be recorded on forms provided by the Kansas department of health and environment.

(2) Children who are under age 16 and are living in the home shall have current immunizations. Exemption shall be permitted only with certification from a licensed physician stating that the physical condition of the child is such that the immunization would endanger the child's life or health, or a written statement from the applicant that the applicant is an adherent of a religious denomination whose teachings are opposed to immunizations. (Authorized by K.S.A. 65-508; implementing K.S.A. 65-507, 65-508, 65-510; effective, E-81-22, August 27, 1980; effective May 1, 1981; amended, T-84-28, October 19, 1983; amended May 1, 1984; amended May 1, 1986.)

CHILD CARE CENTERS AND PRESCHOOLS

28-4-430. Health.

(a) Children's health assessments.

(1) A pre-entrance health assessment conducted within six months prior to enrollment shall be required for each child. The assessment shall be conducted by a licensed physician, or a nurse approved to perform health assessments.

(2) Results of the assessment shall be recorded on forms supplied by the Kansas department of health and environment, and kept in the child's file at the facility.

(3) Children transferring from one facility to another shall not be required to obtain a new health assessment if the old assessment record is available.

(4) Tuberculin testing shall be required only if the child comes in contact with a new active or reactivated case of tuberculosis. The results of the examination shall become a part of the child's health record.

(5) Immunizations shall be current in accordance with the child's age at time of enrollment, and shall be maintained current for protection against diphtheria, pertussis, tetanus, measles, mumps, rubella, and poliomyelitis. A record of each child's immunizations shall be maintained on the child's health assessment form.

(6) Exceptions to health assessments and immunizations shall be permitted if one of the following is obtained:

(A) Certification from a licensed physician stating that the physical condition of the child is such that immunization would endanger the child's life or health; or

(B) A written statement signed by a parent or guardian that the parent or guardian is an adherent of a religious denomination whose teachings are opposed to health assessments or immunizations.

(7) Each licensee shall provide information to the parents of children in care about the value of annual, well-child health assessments for children under six years of age, and bi-annual health assessments for children six years of age and older. Each licensee shall also provide information about the importance of seeking medical advice when a child exhibits health problems. This information may be provided by giving Kansas department of health and environment pamphlet to the parent at the time the child is enrolled, or by posting the information in a conspicuous place, with copies of the pamphlets available to parents upon request.

(b) Health practices.

(1) Each child's hands shall be washed with soap and water before and after eating and after toileting.

(2) Children shall be allowed to go to the bathroom individually as needed.

(c) Illness and abuse.

(1) When a child is absent due to a communicable disease, staff shall inform other parents of the nature of the illness.

(2) Communicable diseases shall be reported to the county health department.

(3) Each staff member shall be trained to observe symptoms of illness, neglect, and child abuse, and shall observe each child's physical condition daily.

(4) Symptoms of illness shall be reported immediately to parents.

(5) Any evidence of neglect or unusual injuries, including bruises, contusions, lacerations, and burns, shall be noted on the child's record, and shall be reported immediately to the person in charge of the facility.

(6) The person in charge of the facility shall report immediately to the Kansas department of social and rehabilitation services, any evidence of suspected child abuse or neglect. When the local offices of the department of social and rehabilitation services are not open, reports shall be made to local law enforcement agencies.

(7) If care of sick children is to be provided, written plans regarding the needs of a sick child, and the care of a sick child, shall be prepared in consultation with the public health nurse, and shall be presented to the parents at time of enrollment. Requirements for isolation and quarantine of specific infectious and contagious diseases, as outlined in K.A.R. 28-1-2 and 28-1-6, effective May 1, 1982 shall be met.

(8) A quiet area shall be provided for sick children. Sick children shall be supervised by an adult.

(9) (A) Non-prescription medications shall not be administered to any child except on written order of the parent or guardian.

(B) Orders shall be renewed yearly.

(C) Medication shall be administered by a designated staff member.

(10) Prescription medication shall be administered by one designated staff member, per session, per unit from a pharmacy container labeled with the child's name, the name of the medication, dosage, dosage intervals, the name of the physician, and the date the prescription was filled. The label shall be considered the order from the physician.

(11) A record shall be kept in the child's file as to who gave the medication, and of the date and time it was given.

(d) Staff.

(1) General health policies.

(A) Smoking will be prohibited in the center or preschool.

(B) Alcohol or non-prescribed controlled substances, as defined in K.S.A. 65-4101 and any amendments to it, shall not be consumed on the premises during hours of operation, nor while children are present.

(C) Each child residing in the same location as a child care center or preschool shall have on file at the facility a health assessment conducted by a license physician or a nurse approved to perform health assessments. Persons under 16 years of age shall have current immunizations. (Authorized by and implementing K.S.A. 65-508; effective May 1, 1983; amended May 1, 1984; amended May 1, 1985; amended May 1, 1986.)

Infection Control

BOARDING CARE HOMES

28-39-161. Infection control. Each facility shall establish and maintain an infection control program designed to provide a safe, sanitary and comfortable environment for residents and to prevent the development and transmission of disease and infection.

(a) The facility shall establish an infection control program under which it:

(1) Prevents, controls and investigates infections in the facility;

(2) develops and implements policies and procedures that require all employees to adhere to universal precautions to prevent the spread of blood-borne infectious diseases based on “universal precautions for prevention of transmission of human immunodeficiency virus, hepatitis B virus, and other bloodborne pathogens in health-care settings,” as published in the morbidity and mortality weekly report, June 24, 1988, vol. 37 no. 24 and CDC guidelines for “handwashing and hospital environment control,” as published in November 1985, are hereby adopted by reference;

(3) Develops and implements policies and procedures related to isolation of residents with suspected and/or diagnosed communicable diseases based on "centers for disease control guideline for isolation precautions in hospitals," as published in January 1996, which is hereby adopted by reference;

(4) develops policies and procedures related to employee health based on the centers for disease control “guideline for infection control in hospital personnel,” as published in August 1983, which is hereby adopted by reference;

(5) assures that at least one private room that is well ventilated and contains a separate toilet facility is designated for isolation of a resident with an infectious disease requiring a private room. The facility shall develop a policy for transfer of any resident occupying the designated private room to allow placement of a resident with an infectious disease requiring isolation in the private room designated as an isolation room;

(6) includes in the orientation of new employees and periodic employees in-service information on exposure control and infection control in a health care setting; and

(7) maintains a record of incidents and corrective actions related to infections which are reviewed and acted upon by the quality assessment and assurance committee.

(b) Preventing the spread of infection.

(1) When a physician or licensed nurse determines that a resident requires isolation to prevent the spread of infection, the facility shall isolate the resident according to the policies and procedures developed.

(2) The facility shall prohibit employees with a communicable disease or infected skin lesions from coming in direct contact with residents, any resident's food, or resident care equipment until the condition is resolved.

(3) Tuberculosis skin testing shall be administered to each new resident and employee as soon as residency of employment begins, unless they have documentation of a previous positive reaction. Each facility shall follow the centers for disease control recommendations for "prevention and control of tuberculosis in facilities providing long-term care to the elderly," as published in morbidity and mortality weekly report, July 13, 1990.

(4) Staff shall wash their hands after each direct resident contact for which handwashing is indicated by centers for disease control guideline for "handwashing and hospital environmental control," as published November 1985, which is hereby adopted by reference.

(c) Linens and resident clothing.

(1) The facility shall handle soiled linen and soiled resident clothing as little as possible and with minimum agitation to prevent gross microbial contamination of air and of persons handling the items.

(2) The facility shall place all soiled linen and resident clothing in bags or in carts immediately at the location where they were used. The facility shall not sort and pre-rinse linen and resident clothing in resident-care areas.

(3) The facility shall deposit and transport linen and resident clothing soiled with blood or body fluids in bags that prevent leakage.

(4) The facility shall wash linen with detergent in water of at least 160°F. The facility shall follow the manufacturer's operating instructions for washing equipment.

(5) The facility may choose to wash linens and soiled resident clothing in water less than 160°F if the following conditions are met:

(A) Temperature sensors and gauges capable of monitoring water temperatures to ensure that the wash water does not fall below 72°F are installed on each washing machine.

(B) The chemicals used for low temperature washing emulsify in 70°F water.

(C) The supplier of the chemical specifies low-temperature wash formulas in writing for the machines used in the facility.

(D) Charts providing specific information concerning the formulas to be used for each machine are posted in an area accessible to staff.

(E) The facility ensures that laundry staff receive in-service training by the chemical supplier on a routine basis, regarding chemical usage and monitoring of wash operations.

(F) Maintenance staff monitors chemical usage and wash water temperatures at least daily to ensure conformance with the chemical supplier's instructions.

(6) The facility shall use methods for transporting and storing of clean linen that will ensure the cleanliness of the linens. (Authorized by and implementing K.S.A. 39-932; effective Nov. 1, 1993; amended Feb. 21, 1997; amended Oct. 8, 1999.)

Isolation and Quarantine

28-1-5. General provisions for isolation or quarantine of persons afflicted with infectious or contagious disease; examination of persons; collection of specimens.

(a) When conditions of isolation and quarantine are not otherwise specified by regulation, the local health officer or the secretary of health and environment shall order and enforce isolation and quarantine of persons afflicted with or exposed to infectious or contagious diseases. The duration and manner of isolation or quarantine so ordered shall be based upon the incubation period, communicable period and usual mode of transmission of the infectious agent of the disease for which isolation or quarantine is ordered.

(b) Isolation or quarantine shall be ordered in conjunction with investigation of infectious or contagious disease cases and outbreaks for the examination of persons reasonably suspected of having these diseases, and to obtain specimens from these persons for laboratory evidence suggestive of infectious or contagious disease. (Authorized by K.S.A. 65-128, K.S.A. 1981 Supp. 65-101; implementing K.S.A. 1981 Supp. 65-101; effective May 1, 1982.)

28-1-6. Requirements for isolation and quarantine of specific infectious and contagious diseases. The following isolation precautions (as defined in K.A.R. 28-1-1) shall be observed:

(a) Amebiasis: Infected food handlers shall be excluded from their occupation until three negative stools have been obtained. Both the second and the third specimens shall be collected at least 48 hours after the prior specimen.

(b) Anthrax: Infected persons shall be isolated until all lesions are healed.

(c) Chickenpox: Infected persons shall be isolated for six days after the first crop of vesicles appears or until lesions are crusted, whichever comes first.

(d) Cholera: Enteric precautions shall be followed for the duration of acute symptoms. Contacts shall be quarantined for five days from the date of last exposure.

(e) Diphtheria: Infected persons shall be isolated for 14 days or until two consecutive negative pairs of nose and throat cultures, and cultures of skin lesions in cutaneous diphtheria, are obtained at least 24 hours apart and not less than 24 hours after discontinuation of antibiotic therapy. Household and intimate contacts shall be quarantined for seven days from time of last contact or until nose and throat cultures are negative. Healthy carriers shall be treated.

(f) E. coli O157:H7: Enteric precautions shall be followed for the duration of acute symptoms. Infected persons shall be excluded from food handling, patient care, or occupations involving the care of young children and the elderly, and infected children shall not attend a day care center until two negative

stool cultures are obtained at least 24 hours apart and no sooner than 48 hours following discontinuation of antibiotics.

(g) Gonorrhea ophthalmia neonatorum: Infected persons shall be isolated for 48 hours following initiation of treatment with antibiotics or until two negative cultures are obtained.

(h) Malaria: Blood precautions shall be followed for the duration of hospitalization.

(i) Meningitis, meningococcal: Respiratory isolation shall be instituted for 24 hours after initiation of antibiotic therapy.

(j) Meningitis, aseptic and other: Infected persons shall be isolated until end of the febrile period.

(k) Mumps: Respiratory isolation shall be instituted for nine days from the onset of parotid gland swelling.

(l) Pediculosis: Students infested with lice shall be excluded from school or child care facilities until treatment with an antiparasitic drug is initiated, and until all nits have been removed.

(m) Pertussis (whooping cough): Respiratory isolation shall be instituted for three weeks if untreated, or for five days following initiation of antibiotic therapy.

(n) Plague (pneumonic): Airborne precautions shall be instituted until completion of 48 hours of antibiotic therapy and there has been a favorable clinical response. Close contacts who do not receive chemoprophylaxis shall be quarantined for seven days.

(o) Poliomyelitis: Infected persons shall be isolated for 10 days from onset; enteric precautions shall be followed for six weeks.

(p) Rubeola (measles): Respiratory isolation shall be instituted for four days after the onset of rash.

(q) Rubella (German measles): Respiratory isolation shall be followed for seven days after the onset of rash.

(r) Salmonellosis (nontyphoidal): Enteric precautions shall be followed for the duration of acute symptoms. Infected persons with diarrhea shall be excluded from food handling, patient care or occupations involving the care of young children and the elderly until no longer symptomatic. Asymptomatic and convalescent infected persons without diarrhea may be excluded from, and return to, this work by the order of the local health officer or the Kansas department of health and environment.

(s) Scabies: Children or students infected with scabies shall be excluded from school or child care facilities until treated with an antiparasitic drug.

(t) Shigellosis: Enteric precautions shall be followed for duration of acute symptoms. Infected persons shall be excluded from food handling, patient care, or occupations involving the care of young children and the elderly until two negative cultures are obtained at least 24 hours apart and no sooner than 48 hours following discontinuation of antibiotics.

(u) Staphylococcal disease: Infected food handlers shall be excluded from their occupation until purulent lesions are healed.

(v) Streptococcal disease, hemolytic (including erysipelas, scarlet fever, streptococcal sore throat): Infected persons shall be isolated for 10 days if untreated or for 24 hours following initiation of antibiotic therapy.

(w) Taeniasis (beef or pork tapeworm): Enteric precautions shall be followed until treated.

(x) Tinea capitis and corporis (ringworm): Infected children or students shall be excluded from school until under treatment by a physician.

(y) Tuberculosis: Respiratory isolation shall be instituted until three sputa obtained on consecutive days are negative by microscopic examination.

(z) Typhoid fever: Enteric precautions shall be followed for the duration of acute symptoms. Infected persons shall be restricted from food handling, patient care, or occupations involving the care of young children and the elderly until three negative stool cultures, and urine cultures in patients with schistosomiasis, have been obtained. Both the second and the third specimens shall be collected at least 24 hours after the prior specimen. The first specimen shall be collected no sooner than 48 hours following discontinuation of antibiotics, and not earlier than one month after onset. If any one of these tests is positive, cultures shall be repeated monthly until three consecutive negative cultures are obtained.

(aa) Sexually transmitted diseases (including syphilis, gonorrhea, chlamydia, and other diseases associated with sexual transmission): Isolation or quarantine measures shall be established by the local health officer for persons who are confirmed or suspected of being infected with a sexually transmitted disease if these persons are recalcitrant to proper treatment.

(bb) Viral hepatitis type A (infectious): Blood and enteric precautions shall be followed for two weeks after onset of symptoms. Infected persons shall be restricted from food handling, patient care, or occupations involving the care of young children and the elderly until two weeks after the onset of illness. (Authorized by K.S.A. 65-128, K.S.A. 65-101; implementing K.S.A. 65-101; effective May 1, 1982, amended May 1, 1986; amended Sept. 5, 1997; amended July 16, 1999.)

28-1-7. Isolation of food handlers with infectious or contagious diseases. Persons employed in the preparation of food for sale or for public consumption shall be excluded from their occupations until all requirements for release from isolation of the specific infectious or contagious disease with which they are afflicted, as specified in K.A.R. 28-1-6, have been met. (Authorized by K.S.A. 1981 Supp. 65-101, K.S.A. 65-128; implementing K.S.A. 1981 Supp. 65-101, effective May 1, 1982.)

28-1-12. Release from isolation or quarantine. All laboratory tests or cultures for release of an individual from isolation or quarantine shall be performed by the laboratory of the state department of health and environment, or by a laboratory approved by the state department of health and environment for this purpose. (Authorized by K.S.A. 65-128, K.S.A. 1981 Supp. 65-101; implementing K.S.A. 1981 Supp. 65-101; effective May 1, 1982.)

Rabies and Other Zoonoses

28-1-13. Rabies control; isolation of mammals causing exposure to rabies for observation and examination; quarantine of mammals exposed to rabies.

(a) In conjunction with investigation of the exposure to rabies of a human or other mammal by another non-human mammal, the isolation of the mammal causing exposure to rabies shall be as follows:

(1) An owned or wanted dog, cat, or ferret shall be isolated for ten (10) days as determined by the local health officer or the local health officer's designee at one of the following locations:

(A) The residence of the owner of the dog, cat, or ferret;

(B) in a veterinary hospital; or

(C) a facility holding a current state pound and shelter license. During this time the local health officer or the local health officer's designee shall determine whether or not the dog, cat, or ferret is suffering from rabies, and if not, the local health officer or the local health officer's designee shall authorize the release of the dog, cat, or ferret upon payment by the owner of the boarding fee.

(2) Stray, unclaimed or unwanted dogs, cats, or ferrets shall be sacrificed immediately and the head submitted for laboratory examination for evidence of rabies infection.

(3) The management of horses, cattle, and sheep shall be determined by the local health officer or the local health officer's designee.

(4) Mammals, other than dogs, cats, ferrets, horses, cattle, or sheep, including the offspring of wild species cross-bred with domestic dogs and cats, skunks, foxes, raccoons, coyotes, bats, and other species known to be involved in the transmission of rabies, whether owned or unowned, shall be sacrificed immediately and the head submitted for laboratory examination for evidence of rabies infection. Any mammal that has been vaccinated may be sacrificed and tested if the period of virus shedding is unknown for that species.

(5) Mammals, including rabbits, hares, gerbils, guinea pigs, hamsters, mice, rats, squirrels, chipmunks, and other species not known to be involved in the transmission of rabies, need not be sacrificed and submitted for laboratory examination for evidence of rabies infection, unless the circumstances of the potential exposure to rabies incident, in the judgement of the local health officer or the local health officer's designee, indicate otherwise.

(6) The disposition of mammals that are not known to be involved in the transmission of rabies, and that are maintained in zoological parks, shall be in accordance with the judgement of the local health officer or the local health officer's designee.

(b) Quarantine of mammals exposed to rabies by a known or suspected rabid animal shall be as follows:

(1) Stray, unclaimed or unwanted dogs, cats, or ferrets shall be sacrificed immediately.

(2) Dogs, cats, or ferrets that have an owner, are wanted by that owner, and are not immunized against rabies shall be quarantined for six (6) months at one of the following locations, as determined by the local health officer or the local health officer's designee:

(A) The residence of the owner of the dog, cat, or ferret;

(B) in a veterinary hospital; or

(C) At a facility holding a current state pound and shelter license. These dogs, cats, or ferrets shall be immunized against rabies one month before release from quarantine. The local health officer or the local health officer's designee shall authorize the release of the dog, cat, or ferret upon payment of the boarding fee.

(3) Dogs, cats, ferrets, horses, cattle, and sheep that have an owner and are wanted by that owner, and for which the owner produces rabies vaccination certificates that contain the following information shall be immediately revaccinated and kept under the owner's control and observed for forty-five (45) days:

(A) the expiration date of the rabies vaccination; and

(B) positive identification for each of these mammals showing that the mammals are currently vaccinated by a licensed veterinarian with an approved vaccine for that species.

(4) Horses, cattle, and sheep not vaccinated with an approved vaccine for that species shall be sacrificed immediately or quarantined for six (6) months under conditions satisfactory to the local health officer or the local health officer's designee. The local health officer or the local health officer's designee shall authorize the release of the horse, cow, or sheep upon payment of any boarding fees.

(5) Other mammals shall be sacrificed immediately, except for those mammals currently vaccinated with an approved vaccine for that species. Mammals that have been appropriately vaccinated may be immediately revaccinated and quarantined for at least ninety (90) days under conditions satisfactory to the local health officer or the local health officer's designee.

(Authorized by K.S.A. 65-128, K.S.A. 1984 Supp. 65-101; implementing K.S.A. 1984 Supp. 65-101; effective May 1, 1982; amended May 1, 1986; amended July 5, 1996; amended April 24, 1998.)

28-1-14. Rabies control in wildlife animals.

(a) The possession or sale of skunks, raccoons, foxes and coyotes for keeping of these as pets shall be prohibited.

(b) Removal of musk glands of skunks for purposes of attempted domestication shall be prohibited.

(c) Except as permitted by the secretary, attempts to immunize skunks, coyotes, raccoons, foxes and other wildlife mammals known to be involved in the transmission of rabies shall be prohibited.

(d) Sections (a) and (b) of this regulation shall not apply to bonafide zoological parks or research institutions. (Authorized by and implementing K.S.A. 1982 Supp. 65-101; effective May 1, 1982; amended May 1, 1983; amended July 5, 1996.)

28-1-15. Psittacosis control; records of purchase and sale. Breeders, wholesalers, distributors and retailers of psittacine birds shall maintain a record of the date of purchase, source, and the species of each psittacine bird. When birds are sold, the seller shall record the name, address, and telephone number of the customer, date of purchase, species purchased, and the band number, if applicable, for each psittacine bird sold. These records shall be kept for one (1) year. (Authorized by and implementing K.S.A. 1981 Supp. 65-101; effective May 1, 1982; amended July 5 1996.)

Residential Childhood Lead Poisoning Prevention

28-1-18. Notification of Kansas department of health and environment by laboratories of positive reaction to tests for certain diseases.

(a) To assist in the control of disease in Kansas, each person who is in charge of a clinical laboratory shall notify the Kansas department of health and environment within 48 hours of after testing, unless otherwise specified in this regulation, any specimen derived from the human body that yields microscopical, cultural, immunological, serological, or other evidence suggestive of those diseases that are significant from a public health standpoint.

(b) (1) Each notification shall include the following:

(A) The date and result of the test performed;

(B) the name of the person from whom the specimen was obtained;

(C) when available, either the date of birth or the age, and the address and telephone number of the person from whom the specimen was obtained; and

(D) when available, the name and address of the physician for whom the examination or test was performed, and any other information required by the secretary.

(2) A legible copy of the laboratory report delivered by confidential electronic transmission or mail, or a confidential telephone communication of the laboratory report shall satisfy the notification requirement of this subsection.

(c) The conditions or diseases to which this regulation applies shall include the following:

(1) All diseases listed in K.A.R. 28-1-2;

(2) all blood lead level test results as follows:

(A) Blood lead level test results greater than or equal to 10 micrograms per deciliter for persons less than 18 years of age, and greater than or equal to 25 micrograms per deciliter for persons 18 years of age or older shall be reported within 48 hours; and

(B) blood lead level test results less than 10 micrograms per deciliter for persons less than 18 years of age, and less than 25 micrograms per deciliter for persons 18 years of age or older shall be reported within 30 days; and

(3) CD4+ T-lymphocyte count of less than 500 per microliter or a CD4+ T-lymphocyte percent of total lymphocytes less than 29.

(d) Isolates of positive cultures of the following microorganisms shall be sent to the Kansas department of health and environment, division of health and environmental laboratories, unless this requirement is waived under special circumstances by the secretary of health and environment:

(1) *Salmonella*;

(2) *shigella*;

(3) *Escherichia coli* O157:H7 and other enterohemorrhagic, enteropathogenic, and enteroinvasive *E. coli*;

(4) *Neisseria meningitidis*;

(5) streptococcal invasive disease from group A *Streptococcus* or *Streptococcus pneumoniae*; and

(6) *Mycobacterium tuberculosis*.

(e) All laboratory notifications required in this regulation shall be confidential and shall not be open to public inspection, as provided in K.S.A. 65-118 and amendments thereto. (Authorized by and implementing K.S.A. 65-101, K.S.A. 2001 Supp. 65-118, and K.S.A. 65-128; effective, E-68-22, Aug. 9, 1968; effective Jan. 1, 1969; amended May 1, 1986; amended Aug. 23, 1993; amended Jan. 12, 1996; amended Dec. 1, 1997; amended Feb. 18, 2000; amended, T-28-8-9-02, Aug. 9, 2002; amended .)

Sexually Transmitted Diseases

MATERNAL AND CHILD HEALTH GENERAL REGULATIONS

28-4-73. Treatment of eyes of newborn.

(a) The prophylactic solution approved for instillation into the eyes of newly born infants shall be one of the following:

- (1) One percent (1%) aqueous solution of silver nitrate,
- (2) An ophthalmic ointment containing one percent (1%) tetracycline, or
- (3) An ophthalmic ointment containing five-tenths percent (.5%) erythromycin.

(b) These prophylactic agents shall be distributed in single use containers which bear clearly the name and percentage strength and an expiration date beyond which the product shall not be used. (Authorized by K.S.A. 65-153b, 65-153d; effective January 1, 1966; amended E-81-39, Dec. 10, 1980; amended May 1, 1981.)

Tuberculosis

MATERNAL AND CHILD HEALTH GENERAL REGULATIONS FOR CATEGORIES OF CHILD CARE

28-4-126. Health of persons 16 years or older in child care facilities.

(a) (1) Each person caring for children shall be free from physical, mental or emotional handicaps as necessary to protect the health, safety and welfare of the children, and shall be qualified by temperament, emotional maturity, sound judgment, and an understanding of children.

(2) Persons in contact with children shall not be in a state of impaired ability due to the use of alcohol or drugs.

(b) (1) Each person regularly caring for children shall have a health assessment conducted by a licensed physician or by a nurse trained to perform health assessments. The health assessment shall be conducted no earlier than one year before the date of employment or initial application for a license or certificate of registration, or not later than 30 days after the date of employment or initial application.

(2) Each substitute in a day care facility as defined in K.A.R. 28-4-113 or K.S.A. 65-517 shall be exempt from K.A.R. 28-4-126(b)(1).

(c) Tuberculin testing.

(1) Each person living, working or regularly volunteering in the facility shall have a record of a negative tuberculin test or x-ray obtained not more than two years before the employment or initial application, for a license or certificate of registration or not later than 30 days after the date of employment or initial application.

(2) Additional tuberculin testing shall be required if significant exposure to an active case of tuberculosis occurs, or symptoms compatible with tuberculosis develop. Proper treatment or prophylaxis shall be instituted, and results of the follow-up shall be recorded on the person's health record. The Kansas department of health and environment shall be informed of each case described within this paragraph.

(d) Results of the health assessment and tuberculin test shall be recorded on forms supplied by the Kansas department of health and environment and kept on file at the facility. Health assessment records may be transferred to a new place of employment if the transfer occurs within one year of previous employment.

(e) Each resident 16 years or older in a residential facility as defined in K.A.R. 28-4-268 shall meet the requirements in K.A.R. 28-4-126(c) and (d) and K.A.R. 28-4-275(c). (Authorized by and implementing K.S.A. 65-508 and K.S.A. 65-522; effective May 1, 1986; amended Feb. 26, 1990.)

CHILD CARE RESOURCE AND REFERRAL AGENCIES

28-4-188. Health policies for staff.

(a) Before employment, all staff who have contact with the children shall submit, on a form supplied by the division, a certificate of health signed by a licensed physician or nurse approved to perform health assessments. The certificate shall include certification that the person is free from tuberculosis as established by a chest x-ray or negative tuberculin skin test administered within 2 years of the date of employment.

(b) Substitutes and volunteers, before participating in any program operated by the day care referral agency, shall present a written statement of freedom from active tuberculosis signed by a licensed physician or nurse approved to perform health assessments. (Authorized by K.S.A. 65-508; implementing K.S.A. 65-503; 65-508; effective May 1, 1982.)

ATTENDANT CARE FACILITIES FOR CHILDREN AND YOUTH

28-4-291. Health care policies.

(a) (1) Each facility, in consultation with a physician or community health nurse, and using the Kansas department of health and environment health care guidelines as a resource, shall develop written health care guidelines covering the following areas:

(A) Care of minor illness, including the use of nonprescription drugs;

(B) care of juveniles under the influence of alcohol and drugs; and

(C) consultation regarding individual juveniles when indicated.

(2) Each attendant caring for juveniles shall have first aid training.

(b) Health care of juveniles.

(1) A health checklist provided by the Kansas department of health and environment shall serve as a guide to determine if a juvenile is in need of medical care.

(2) A physician shall be contacted for any juvenile taking a prescribed medication to prevent interruption of treatment.

(C) A physician shall be contacted for a juvenile who has acute symptoms of illness or who has a chronic illness. Reportable communicable diseases shall be reported immediately to the county health officer.

(c) Health of attendants.

(1) Each attendant shall be free of communicable disease and shall be in such a state of health and freedom from physical or emotional handicaps as is necessary to work with children.

(2) Each attendant shall present written proof of freedom from active tuberculosis before serving in the facility. (Authorized by and implementing K.S.A. 65-508; effective T-28-7-29-88, July 29, 1988; effective Dec. 12, 1988.)

DETENTION CENTERS AND SECURE CARE TREATMENT CENTERS FOR CHILDREN AND YOUTH

28-4-356. Health care policies.

(a) Health services for juveniles.

(1) Each center, in consultation with a physician or community health nurse, shall develop written health care policies which cover:

(A) Health history checklist and review for each juvenile upon admission, as documented on forms approved by Kansas department of health and environment;

(B) follow-up health care, including health examination and referrals, for concerns identified in the health history checklist and review;

(C) dental screening upon admission and follow-up emergency dental care as needed;

(D) preventive dental care for juveniles in secure care;

(E) chronic care, convalescent care and preventive care when medically indicated;

(F) care for minor illness, including the use and administration of prescription and nonprescription drugs;

(G) care for juveniles under the influence of alcohol or other drugs;

(H) consultation regarding individual juveniles when indicated;

(I) infection control measures and universal precautions to prevent the spread of bloodborne infectious diseases recommended in “update: Universal Precautions for Prevention of Human Immunodeficiency Virus, Hepatitis B Virus, and Other Bloodborne Pathogens in Health-care Settings” as published in the Morbidity and Mortality Weekly Report, June 24, 1988, Vol. 37 No. 24 which are hereby adopted by reference;

(J) maternity ward care as defined in K.A.R. 28-4-279; and

(K) medically indicated isolation.

(2) Each center shall have a physician licensed to practice in Kansas designated as the medical consultant to the health program.

(3) Each center shall obtain a written consent from each juvenile’s parent or legal guardian for medical and dental care.

(4) The medicine cabinet shall be located in an accessible, supervised area. The cabinet shall be kept locked. Internal and external medicines shall be kept in separate sections of the cabinet. All unused medicines shall be safely discarded.

(A) Prescription medication shall be administered by a designated staff member, from a pharmacy container labeled with the juvenile’s name, the name of the medication, the dosage, the dosage intervals, the name of the physician and the date the prescription was filled. Any changes of prescription or directions for administering a prescription medication shall be authorized in writing by a physician, with documentation in the juvenile’s file.

(B) All medication, including non-prescription medication, shall be given only in accordance with label directions, unless ordered differently by a licensed physician. A record shall be kept in the juvenile’s file documenting the name of the person who gave the medication, the dosage and the date and time it was given.

(5) Arrangements for emergency care shall be made as follows:

(A) The center shall have a written statement of the name, address and telephone number of a physician licensed in Kansas to be called in case of emergency.

(B) Policy and procedures shall ensure continuous care of juveniles who require emergency medical treatment.

(C) When a staff member accompanies a juvenile to the source of emergency care, the staff member shall remain with the juvenile for the duration of the emergency. Supervision of the other

juveniles in the center shall not be compromised. The health history checklist and health assessment shall be taken to the emergency room with the juvenile.

(6) Any incident resulting in the death of or serious injury to any staff member or juvenile, or any instance of suspected abuse or neglect, shall be reported immediately to the Kansas department of health and environment bureau of adult and child care, and the county health department. A written incident report shall be submitted to the bureau within five working days. Each parent or legal guardian shall be immediately notified when serious injury to, death or hospitalization of a juvenile occurs. When suspected abuse or neglect of a juvenile occurs, the Kansas department of social and rehabilitation services shall be notified in accordance with statutory requirements.

(7) Any injury to a juvenile or staff member that is a result of suspected criminal action, shall be reported immediately to the local law enforcement officials and district attorney's office for their disposition.

(8) Any death of a staff member within the center or of a juvenile shall be reported to the local law enforcement officials and district attorney's office for appropriate action.

(b) Physical health of juveniles.

(1) A health history checklist shall be completed for each juvenile at the time of admission. This checklist shall be completed by the person who admits the juvenile, using forms supplied or approved by the Kansas department of health and environment.

(A) The health checklist shall serve as a guide to determine if a juvenile is in need of immediate medical care.

(B) The center's physician shall be contacted for any juvenile who is taking a prescribed medication at the time of admission so that treatment is not interrupted.

(C) The center's physician shall be contacted for any juvenile who has acute symptoms of illness or who has a chronic illness. Communicable diseases shall be reported within 24 hours or by the next working day to the local county health department.

(2) Within in 72 hours of admission, juveniles shall have a review of the health history checklist by a physician or nurse. Based upon health indicators derived from the checklist or in the absence of documentation of a screening within the past 24 months, the physician or nurse shall determine whether a full screening and health assessment are necessary.

(A) When necessary, the screening and health assessment shall be conducted by a licensed physician or nurse certified by the Kansas department of health and environment to conduct such examinations.

(i) The screening and health assessment shall be completed within 10 days of admission.

(ii) The screening shall be based upon health assessment and screening guidelines provided or approved by the Kansas department of health and environment.

(B) Medical and dental records shall be kept on forms provided or approved by the Kansas department of health and environment and shall be kept current.

(C) Each juvenile shall receive a tuberculin skin test. A chest x-ray shall be taken of all positive tuberculin reactors and those with a history of previous positive reaction. The proper treatment or prophylaxis shall be instituted. The results of this follow-up shall be recorded in the juvenile's record and the county health department shall be kept informed of the results.

(D) A current health record shall be kept for each juvenile which includes the juvenile's current immunization record, health history checklist, documentation of the review of the medical history checklist and the decision regarding the need for screening and health assessment, tuberculin skin test report, medical contacts and entries regarding the juvenile's health care plan.

(E) The health record shall accompany the juvenile when transferred to another facility. A copy of the health record shall be kept in the juvenile's file at the center.

(3) Written policy and procedures shall prohibit the use of tobacco in any form by juveniles while in care.

(c) Dental health of juveniles.

(1) Emergency dental care shall be available for all juveniles. Each secure care center juvenile record shall include a report of a dental examination obtained within one year before or 60 days after admission.

(2) The center staff shall develop plans for dental health education and shall supervise the juveniles in the practice of good dental hygiene.

(d) Personal health of staff members and volunteers.

(1) Each person caring for juveniles shall be:

(A) Free from communicable disease;

(B) Free from physical, mental or emotional handicaps as is necessary to fulfill the responsibilities listed in the job description and protect the health, safety and welfare of the juveniles;

(C) Free from impaired ability due to the use of alcohol or other drugs.

(2) Each staff member who will have contact with the juveniles shall receive a health examination within one year before employment. This examination shall be conducted by a licensed physician or a nurse authorized to conduct such examinations.

(3) Results of the health examinations shall be recorded on forms supplied or approved by the Kansas department of health and environment and kept on file at the center. Health assessment records may be transferred from a previous place of employment if the transfer occurs within one year of the examination date.

(4) The initial health examination shall include a tuberculin test. If there is a positive reaction to the tuberculin skin test or a history of previous positive reaction, a chest x-ray shall be required. Proof of proper treatment or prophylaxis, according to current Kansas department of health and environment guidelines, shall be required. Documentation of test, x-ray and treatment results shall be kept in file in the person's health record.

(5) A tuberculin skin test or a chest x-ray shall be required if significant exposure to an active case of tuberculosis occurs or if symptoms compatible with tuberculosis develop. If there is a positive reaction to the diagnostic procedure, proof of proper treatment or prophylaxis, according to the Kansas department of health and environment guideline, shall be required. The results of this follow-up shall be recorded in the person's health record. The Kansas department of health and environment shall be informed of each case described within this paragraph.

(6) Volunteers shall present written proof of freedom from active tuberculosis before serving at the center.

(7) Smoking shall not be permitted in the facility.

(e) Personal hygiene.

(1) Each juvenile shall bathe upon admission and be given the opportunity to bathe daily.

(2) Each juvenile shall be given the opportunity to brush their teeth after each meal

(3) Each juvenile shall be furnished with toothpaste and a toothbrush. Pump soap shall be available at all community sinks and showers.

(4) Facilities for shaves and haircuts shall be made available. No juveniles shall be required to have a hair cut unless a physician determines that a hair cut is medically necessary.

(5) Each juvenile's washable clothing shall be changed and laundered at least twice a week. Underwear and socks shall be changed and laundered daily. Clean and serviceable footwear of appropriate size shall be issued to each juvenile.

(6) Each female juvenile shall be provided personal hygiene supplies with regard to her menstrual cycle.

(7) Clean, individual bath and face towels shall be issued to each juvenile at least twice a week. Bed linen shall be changed at least one a week.

(8) Each juvenile shall be allowed to have at least eight hours of sleep each day. Fourteen hours of activity shall be provided. (Authorized by and implementing K.S.A. 65-508; effective May 1, 1979; amended May 1, 1985; amended August 23, 1993.)

MATERNITY CENTERS

28-4-376. Health policies.

(a) Each person working or living in the center shall have a health assessment that is conducted by a physician or nurse authorized to perform health assessments. Health assessments shall be renewed every three years.

(b) A record of a tuberculin test or chest x-ray obtained with two years prior to employment shall be submitted with the health certificate. Further tuberculin testing shall not be routinely required.

(c) Any visitors to a patient shall be screened for exposure to or symptoms of communicable disease.

(d) Smoking shall be prohibited in the center. (Authorized by K.S.A. 65-508; implementing K.S.A. 65-507, 65-508, 65-510; effective May 1, 1981; amended May 1, 1985.)

HOME HEALTH AGENCY LICENSURE

28-51-103. Organization and administration.

(a) Governing body. Each home health agency shall have a governing body or a clearly defined body having legal authority to operate the agency. The governing body shall:

(1) Have bylaws or their equivalent which shall be renewed annually;

(2) employ a qualified administrator as defined in K.A.R. 28-51-100(a);

(3) adopt, revise, and approve procedures for the operation and administration of the agency as needed;

(4) provide the name and address of each officer, director, and owner of the agency to the licensing agency;

(5) disclose corporate ownership interests of 10 percent or more to the licensing agency; and

(6) disclose past home health agency ownership or management, including the name of the agency, its location, and current status, to the licensing agency.

(b) Administrator. The administrator shall be responsible for the management of the agency to the extent authority is delegated by the governing body. A qualified person shall be designated to act in the absence of the administrator. The administrator shall have at least the following responsibilities:

(1) Organize and direct the agency's ongoing functions;

(2) act as a liaison between the governing body and staff;

(3) employ qualified personnel in accordance with job descriptions;

(4) provide written personnel policies and job descriptions that are made available to all employees;

(5) maintain appropriate personnel records, administrative records, and all policies and procedures of the agency;

(6) provide orientation for new staff, regularly scheduled inservice education programs, and opportunities for continuing education of the staff;

(7) ensure the completion, maintenance, and submission of such reports and records as required by the secretary of health and environment; and

(8) ensure that each patient admitted to the home health agency receives, in writing, the patient's bill of rights listed at K.A.R. 28-51-111.

(c) Personnel records. Current personnel records shall be maintained for each employee. The personnel records for each employee shall include:

(1) The title of that employee's position and a description of the duties and functions assigned to that position;

(2) the qualifications for the position;

(3) evidence of licensure or certification if required;

(4) performance evaluations made within six months of employment and annually thereafter;

(5) documentation of reference checks and a personal interview prior to employment; and

(6) evidence of good general health and a negative tuberculin skin test or chest X-ray upon employment. Subsequent periodic health assessments or physical examinations shall be given in accordance with agency policies.

(d) Personnel under hourly or per visit contracts. There shall be a written contract between the agency and personnel under hourly or per visit arrangements. The contract shall include the following provisions:

(1) A statement that patients are accepted for care only by the primary home health agency;

(2) a description of the services to be provided;

(3) a statement that each employee shall conform to all applicable agency policies, including those related to qualifications;

(4) a statement that the employee shall be responsible for participating in the development of plans of care;

(5) a description of the manner in which services will be controlled, coordinated, and evaluated by the primary agency;

(6) the procedures for submitting clinical and progress notes, scheduling patient care, and conducting periodic patient evaluations; and

(7) the procedures for determining charges and reimbursement.

(e) Abuse, neglect, or exploitation. Each employee of the agency shall be responsible for reporting in accordance with agency policies and K.S.A. 39-1430 et. seq. and amendments thereto, any evidence of abuse, neglect, or exploitation of any patient served by the agency. (Authorized by K.S.A. 65-5109; implementing K.S.A. 65-5104; effective, T-86-23, July 1, 1985; effective May 1, 1986; amended Feb. 28, 1994.)

HOSPITALS

28-34-8a. Administrative services.

(a) General provisions. There shall be an adequate administrative staff to provide effective management of the hospital.

(b) The chief executive officer. The governing body shall appoint a chief executive officer. The qualifications, responsibilities, duties and authority of the chief executive officer shall be described in a written statement adopted by the governing body. The chief executive officer shall implement policies established by the governing body for the operation of the hospital and shall act as a liaison between the governing body, medical staff and the departments of the hospital.

(c) Personnel policies and procedures. The governing body, through the chief executive officer, shall establish and maintain written personnel policies and procedures which adequately support sound patient care. These policies and procedures shall be made available to all employees and shall be reviewed at least every two years. A procedure shall be established for advising employees of policy and procedure changes.

(d) Personnel records. Accurate and complete personnel records shall be maintained for each employee. Personnel records shall contain at least the following information for each employee:

(1) Information regarding the employee's education, training, and experience that is sufficient to verify the employee's qualifications for the employee's job. The information shall indicate the employee's professional licensure status;

(2) current information regarding periodic work performance evaluations; and

(3) records of the initial health examination and subsequent health services and periodic health evaluations.

(e) Education programs. Orientation and in-service training programs shall be provided to allow personnel to improve and maintain skills and to learn of new health care development.

(f) Personnel health requirements. Upon employment, all hospital personnel shall have a medical examination which shall consist of examinations appropriate to the duties of the employee, including a chest X-ray or tuberculin skin test. Subsequent medical examinations or health assessments shall be given periodically in accordance with hospital policies. Each hospital shall develop policies and procedures for control of communicable disease, including maintenance of immunization histories and the provision of educational materials for patient care staff. (Authorized by and implementing K.S.A. 1991 Supp., 65-431; effective June 28, 1993.)